ers, and Decorators of America, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Local Unions Nos. 25, 205, and 410, Brotherhood of Boiler Makers and Iron-Ship Builders of America, San Francisco, Cal., for ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. KNAPP: Petition of citizens of New York, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LAMB: Petition of Pioneer Council, No. 31, Ridge Church, Va.; New South Council, No. 8, Manchester, Va., and Jefferson Council, No. 57, Richmond, Va., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LEE: Paper to accompany bill for relief of D. C. Jones—to the Committee on War Claims.

By Mr. LONGWORTH: Petition of citizens of Oklahoma and Indian Territory, for statehood—to the Committee on the Territories.

By Mr. LOUD: Petition of citizens of Rose City, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LOUDENSLAGER: Petition of Daughters of Liberty, Swedesboro, N. J., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. McKINLEY of Illinois: Petitions of Women's Clubs of Champaign and Urbana, Ill., for investigation of industrial conditions of women in the United States—to the Committee on Appropriations.

Also, petition of Woman's Club of Decatur, Ill., for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. MAYNARD: Papers to accompany bill for establishment of light-ship east of Cape Henry—to the Committee on Interstate and Foreign Commerce.

By Mr. NEVIN: Petition of Acey Radcliff, Patrick Bryan, James D. Huffman, James Cassidy, Henry Borgman, James S. Thompson, Henry Hastings, Henry A. Harlan, Robert Robb, Albert Jamison, Joseph Newman, George Baker, George Menninger, Edward Flynn, Charles W. Finnegan, David B. P. Mann, and 2,326 others, in favor of commutation in lieu of rations to members of the several National Military Homes while on furlough—to the Committee on Military Affairs.

Also, petition of citizens of Ohio, against abuses in administration of affairs in Kongo Free State—to the Committee on Foreign Affairs.

Also, petition of citizens of Hamilton, Ohio, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, paper to accompany bill for relief of officers and men of Dayton Zouave Rangers—to the Committee on Military Affairs.

By Mr. NORRIS: Petition of citizens of Nebraska, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. RHINOCK: Paper to accompany bill H. R. 17024—to the Committee on Invalid Pensions.

By Mr. RUCKER: Petition of The Morning Journal, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. SAMUEL: Petition of True and Loyal Council, No. 177, Daughters of Liberty, of Shamokin, Pa.—to the Committee on Immigration and Naturalization.

By Mr. SHACKLEFORD: Petition of 100 citizens of Oklahoma, for admission as a State of the Union—to the Committee on the Territories.

By Mr. SHERLEY: Petition of the Inland Farm, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. SIBLEY: Petition of the Advance Argus, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. SMITH of Iowa: Petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Iowa, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SMITH of Pennsylvania: Petition of faculty of Bryn Mawr College, for repeal of tariff on art works—to the Committee on Ways and Means.

Also, petition of International Association of Master House Painters and Decorators, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Japanese and Korean Exclusion League, for Chinese-exclusion law as it is—to the Committee on Foreign Affairs.

Also, petition of George C. Henry, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Hornstown Grange, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Buffalo Chamber of Commerce, for Gallinger bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Sons of Veterans, Camp No. 188, Pennsylvania Division, against bill H. R. 8131—to the Committee on Military Affairs.

Also, petition of State Federation of Pennsylvania Women, for national forestry reserves—to the Committee on Agriculture.

Also, petition of The Clarion Democrat, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. SMITH of Texas: Petition of citizens of Texas, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. WM. ALDEN SMITH: Petition of hundreds of citizens of Michigan, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SPERRY: Petition of Perseverence Council, No. 3, Daughters of Liberty, New Haven, Conn., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Irish-American citizens of Ansonia, Conn., for a monument to Commodore Barry—to the Committee on the Library.

By Mr. THOMAS of Ohio: Petition of Huntsburg Grange, No. 1588, Patrons of Husbandry, for retention of 10 per cent law on imitation butter—to the Committee on Agriculture.

Also, petition of Lester J. Williams, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Lake Shore Lodge, No. 84, Brotherhood of Railroad Trainmen, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Akron, Barberton, and Everett, Ohio, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. VREELAND: Petition of citizens of Elko, N. Y., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. WEEKS: Petition of Massachusetts State Board of Trade, for removal of duty on hides—to the Committee on Ways and Means.

By Mr. WACHTER: Paper to accompany bill for relief of William McCormick—to the Committee on Military Affairs.

By Mr. WOOD: Petition of merchants of Mercer and Hunterdon counties, N. J., for removal of tariff on hides—to the Committee on Ways and Means.

SENATE.

WEDNESDAY, *March 28, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings; when, on request of Mr. NELSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 16671. An act permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich.; and

H. R. 17359. An act making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes.

The message also announced that the House insists upon its amendment to the bill (S. 3809) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy and regulating the procedure and punishment in trials for hazing at the said academy, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. VREELAND, Mr. LOUD, and Mr. PADGETT managers at the conference on the part of the House.

The message further announced that the House had agreed to

the amendment of the Senate to the bill (H. R. 6216) granting an increase of pension to Stephen D. Hopkins.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

H. R. 125. An act regulating the retent on contracts with the District of Columbia;

H. R. 4463. An act to amend section 2 of an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes;"

H. R. 4470. An act to amend an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes," approved March 2, 1895;

H. R. 13842. An act to amend an act entitled "An act to incorporate The Eastern Star Home for the District of Columbia," approved March 10, 1902;

H. R. 14467. An act for the relief of Maj. George E. Pickett, paymaster, United States Army; and

H. R. 14813. An act to amend an act approved March 1, 1905, entitled "An act to amend section 4 of an act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901."

PETITIONS AND MEMORIALS.

Mr. NELSON presented a petition of Minnesota Lodge, No. 194, Brotherhood of Railroad Trainmen, of Staples, Minn., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of sundry citizens of Red Wing, Minn., praying that an appropriation be made for the erection of a public building at that city; which was referred to the Committee on Public Buildings and Grounds.

Mr. FRYE presented a petition of Dirigo Grange, No. 13, Patrons of Husbandry, of Brunswick, Me., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. PLATT presented a petition of the Minerva Club, of New York City, N. Y., praying for the enactment of legislation providing for the better protection of women and children employed in the industries of the United States; which was referred of the Committee on Education and Labor.

He also presented the petition of W. W. Mayo and sundry other citizens, of Canaan Four Corners, N. Y., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a memorial of Local Division No. 132, Amalgamated Association of Street and Electric Railway Employees of America, of Troy, N. Y., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

Mr. HOPKINS presented a petition of Northwestern Lodge, No. 424, Brotherhood of Railroad Trainmen, of Central Hall Park, Chicago, Ill., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. PENROSE presented a petition of the congregation of the First United Presbyterian Church, of Crafton, Pa., and a petition of the congregation of the Hawthorne Avenue Presbyterian Church, of Crafton, Pa., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a memorial of sundry citizens of Blair County, Pa., remonstrating against the consolidation of third and fourth class mail matter and for the establishment of a parcels-post system; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KEAN presented the petition of Dr. E. S. Corson, of Bridgeton, N. J., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented petitions of Starry Flag Council, No. 40, Daughters of Liberty, of Freehold; of Integrity Council, No. 163, Daughters of Liberty, of Cranford; of Pride of Diamond Council, No. 114, Daughters of Liberty, of Swedesboro; of Pride of Daniel Webster Council, No. 54, of Newark, and of Pride of Æolian Council, No. 138, Daughters of Liberty, of Elmer, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. GAMBLE presented petitions of the Woman's Club of Brookings; the Excelsior Club, of Milbank; the Nineteenth Century Club, of Huron; the Woman's Club of Pukwana, and the Woman's Club of Fort Pierre, all in the State of South Dakota, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

Mr. BURKETT presented a petition of the general grievance committee, Union Pacific system, Order of Railway Conductors, of Omaha, Nebr., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

Mr. MARTIN presented a paper to accompany the bill (S. 2607) for the relief of the estate of John Heater, deceased; which was referred to the Committee on Claims.

He also presented petitions of Old Dominion Council, No. 5, of Petersburg; New River Council, No. 155, of New River; Mount Tory Council, No. 165, of Sherando; Grafton Council, No. 76, of Grafton; Red Cross Council, No. 134, of Lynchburg; Harborton Council, No. 108, of Harborton; Mount Vernon Council, No. 122, of Chiltons Crossroads; Martinsville Council, No. 111, of Martinsville; Phoenix Council, No. 162, of Pinners Point; Newport News Council, No. 65, of Newport News; Unionville Council, No. 159, of Sandy Bottom; George Washington Council, No. 88, of Oak Grove; Columbian Council, No. 52, of Buena Vista; River View Council, No. 148, of Newport News; Seaside Council, No. 49, of Greenbackville; Parksley Council, No. 114, of Parksley; Valley Forge Council, No. 145, of Newport News; Pioneer Council, No. 31, of Ridge Church; Pittsylvania Council, No. 94, of Elba; New Market Council, No. 10, of New Market; Reliance Council, No. 18, of Roanoke; Tenth Legion Council, No. 129, of Tenth Legion; Basic City Council, No. 44, of Basic City; Halifax Council, No. 41, of South Boston; Molusk Council, No. 67, of Molusk; New South Council, No. 8, of Manchester; Oak Hill Council, No. 83, of McGaheysville; Jefferson Council, No. 57, of Richmond, and Rescue Council, No. 1, of Richmond, all of the Junior Order United American Mechanics, in the State of Virginia, and of Accomac Council, No. 37, of Chincoteague, and of Violet Council, No. 14, of Ridge Church, Daughters of Liberty, in the State of Virginia, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. ELKINS presented a petition of Richlands Grange, Patrons of Husbandry, of Lewisburg, W. Va., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. PENROSE, from the Committee on Post-Offices and Post-Roads, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4686) to reimburse Garrett R. Bradley, late postmaster at Tonopah, Nev., for money expended for clerical assistance; and

A bill (S. 4685) to reimburse Ella M. Collins, late postmaster at Goldfield, Nev., for money expended for clerical assistance and supplies.

Mr. FULTON, from the Committee on Public Lands, to whom was referred the bill (S. 4487) granting to the State of Oregon certain lands to be used by it for the purpose of maintaining and operating thereon a fish hatchery, reported it without amendment, and submitted a report thereon.

He also, from the Committee on Claims, to whom was referred the bill (S. 4819) for the relief of M. A. Johnson, reported it without amendment, and submitted a report thereon.

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 3895) for the restoration of annuities to the Medawakanton and Wahpakoota (Santee) Sioux Indians, declared forfeited by the act of February 16, 1863, reported it with amendments, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 1241) granting an increase of pension to John G. Wallace;

A bill (H. R. 4691) granting an increase of pension to George L. Janney;

A bill (H. R. 6128) granting an increase of pension to Thomas Patterson;

A bill (H. R. 4888) granting an increase of pension to William Moore;

A bill (H. R. 2082) granting an increase of pension to Siotha Bennett;

A bill (H. R. 8823) granting an increase of pension to Charles C. Briant;

A bill (H. R. 8942) granting an increase of pension to Marquis L. Johnson;

A bill (H. R. 10230) granting an increase of pension to Clark A. Winans;

A bill (H. R. 10300) granting an increase of pension to George C. Sackett;

A bill (H. R. 10923) granting an increase of pension to Matilda Rockwell;

A bill (H. R. 9296) granting an increase of pension to Elizabeth D. Hoppin;

A bill (H. R. 13198) granting an increase of pension to Josiah F. Allen; and

A bill (H. R. 2090) granting an increase of pension to Ellen M. Brant.

Mr. HANSBROUGH, from the Committee on Public Lands, to whom was referred the amendment submitted by Mr. HEYBURN on the 5th instant, proposing to appropriate $1,250 for separate State and Territorial maps, prepared in the General Land Office, intended to be proposed to the legislative, executive, and judicial appropriation bill, reported it with an amendment, and moved that it be printed, and, with the accompanying papers, referred to the Committee on Appropriations; which was agreed to.

Mr. BACON, from the Committee on Foreign Relations, to whom was referred the bill (S. 5388) to authorize the acquisition of land and a building for the United States legation in Constantinople, reported it without amendment.

Mr. NELSON (for Mr. GAMBLE), from the Committee on Public Lands, to whom was referred the bill (S. 4635) to approve certain final proofs in the Chamberlain land district, South Dakota, reported it with an amendment, and submitted a report thereon.

He also (for Mr. GAMBLE), from the same committee, to whom were referred the following bills, reported them each without amendment, and submitted reports thereon:

A bill (H. R. 8278) authorizing the Secretary of the Interior to issue patent to Keystone Camp, No. 2879, of the Modern Woodmen of America, to certain lands for cemetery purposes; and

A bill (H. R. 9165) authorizing the Secretary of the Interior to issue patent to the Scandinavian Evangelical Lutheran Little Missouri River congregation to certain lands for cemetery purposes.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 5390) granting an increase of pension to Stephen S. Welch; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. PLATT introduced a bill (S. 5391) for the relief of the heirs of Asa O. Gallup; which was read twice by its title, and referred to the Committee on Claims.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5392) granting an increase of pension to John W. Wilson;

A bill (S. 5393) granting an increase of pension to Jesse H. Critchfield;

A bill (S. 5394) granting an increase of pension to William Roberts; and

A bill (S. 5395) granting an increase of pension to Antonette Stewart (with accompanying papers).

Mr. PILES (for Mr. ANKENY) introduced a bill (S. 5396) for the relief of John Geabhart Abbott; which was read twice by its title, and referred to the Committee on Indian Depredations.

Mr. HOPKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5397) granting an increase of pension to James B. Fairchild;

A bill (S. 5398) granting a pension to Samuel Lyda; and

A bill (S. 5399) granting a pension to Katherine Lyda (with accompanying papers).

Mr. DICK introduced a bill (S. 5400) granting an increase of pension to John A. Chase; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SUTHERLAND introduced a bill (S. 5401) granting an increase of pension to John Elbin; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5402) granting an increase of pension to C. M. Lyon; and

A bill (S. 5403) granting a pension to Isabelle Wallace.

Mr. MARTIN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5404) for the relief of the vestry of St. Peter's Church, of New Kent County, Va. (with accompanying papers);

A bill (S. 5405) for the relief of Mrs. Sarah C. Jones and Mrs. Lucy F. Tyler;

A bill (S. 5406) for the relief of Bland Massie;

A bill (S. 5407) for the relief of the trustees of Fredericksburg Lodge, No. 4, Ancient Free and Accepted Masons;

A bill S. 5408) for the relief of the trustees of the town schoolhouse of Onancock, Accomac County, Va. (with accompanying papers);

A bill (S. 5409) for the relief of John S. Mann and the estate of Lewis W. Mann, deceased;

A bill (S. 5410) for the relief of Monroe Stevens (with an accompanying paper);

A bill (S. 5411) for the relief of the estate of Branon Thatcher, deceased;

A bill (S. 5412) for the relief of E. Scott Arrington (with accompanying papers);

A bill (S. 5413) for the relief of Joseph E. Funkhouser;

A bill (S. 5414) for the relief of the estate of Abraham Hisey;

A bill (S. 5415) for the relief of the estate of James L. Miller;

A bill (S. 5416) for the relief of C. N. Rash (with an accompanying paper); and

A bill (S. 5417) for the relief of Mrs. Emma E. Marsteller (with accompanying papers).

Mr. MALLORY introduced a bill (S. 5418) relinquishing the title of the United States to certain land in the city of Pensacola, Fla., to James Wilkins; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. TALIAFERRO introduced a bill (S. 5419) to extend to the officers and enlisted men and the officers and men of the boat companies of the Florida Seminole Indian war of 1856 to 1858, and their widows, the benefits of the act of March 3, 1855, granting bounty in land; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLAPP introduced a bill (S. 5420) granting an increase of pension to Thomas W. Gilpatrick; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 5421) to amend section 558 of the Code of Laws for the District of Columbia, as approved by act of March 3, 1901, amended by acts of January 31 and June 30, 1902; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the District of Columbia.

He also introduced a bill (S. 5422) for the relief of the estate of the late Christina Turner; which was read twice by its title, and referred to the Committee on Claims.

Mr. McCREARY introduced a bill (S. 5423) granting an increase of pension to William M. Tinsley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FRAZIER introduced a bill (S. 5424) for the relief of the legal representatives of P. M. Craigmiles, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 5425) for the relief of the legal representatives of the estate of James Maney, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. TELLER introduced a bill (S. 5426) providing for the administration of the operations of the act of Congress approved June 17, 1902, known as the reclamation act; which was read twice by its title, and referred to the Committee on Irrigation.

Mr. McLAURIN introduced a bill (S. 5427) for the relief of Mrs. M. M. Champion; which was read twice by its title, and referred to the Committee on Claims.

Mr. ELKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5428) granting an increase of pension to Lucretia L. Flick; and

A bill (S. 5429) granting a pension to George Myers.

Mr. ELKINS introduced a bill (S. 5430) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment; which was read twice by its title, and referred to the Committee on the Judiciary.

He also (by request) introduced a bill (S. 5431) for the relief of J. L. Millspaugh; which was read twice by its title, and referred to the Committee on Indian Depredations.

REGULATION OF RAILROAD RATES.

Mr. LODGE submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

Mr. DANIEL submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

Mr. ELKINS submitted two amendments intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which were ordered to lie on the table, and be printed.

BALLS BLUFF (VA.) NATIONAL CEMETERY.

Mr. MARTIN submitted an amendment authorizing the acceptance on behalf of the United States of a strip of land from the Leesburg and Point of Rocks turnpike in Loudoun County, Va., to the Balls Bluff National Cemetery, and proposing to appropriate $5,000 for the construction of a macadamized road from the Leesburg turnpike to the said cemetery, intended to be proposed by him to the Army appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Military Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MARTIN submitted an amendment proposing to increase the salary of one computer at the Naval Observatory from $1,200 to $1,400 per annum, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Appropriations.

Mr. TELLER submitted an amendment proposing to appropriate $2,500 for salary of the chief of the division of public surveys, General Land Office, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. BURKETT submitted an amendment providing that $400,000 of the appropriation for barracks and quarters be expended at Fort Robinson, Nebr., on construction of barracks and officers' quarters, intended to be proposed by him to the Army appropriation bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

PRINTING OF INDIAN TREATIES.

On motion of Mr. CLAPP, it was

Ordered, That there be printed for the use of the Senate and Interior Department 300 copies of Indian treaties A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, and R, Thirty-second Congress, first session, with the accompanying correspondence, and that the usual number be not printed.

KANAWHA AND HOCKING COAL AND COKE COMPANY.

The VICE-PRESIDENT. Concurrent or other resolutions are in order.

Mr. TILLMAN. Mr. President, this is not a resolution; it is simply in the nature of a memorial. I was not in when that order of business was called. If no other Senator wants to introduce something, I will send it forward.

The VICE-PRESIDENT. Without objection, the memorial will be received.

Mr. TILLMAN. I ask that it be read.

There being no objection, the paper was read, and ordered to lie on the table, as follows:

During the year 1901 the Kanawha and Hocking Coal and Coke Company, the corporate name of which is now the Sunday Creek Coal Company, was organized by the officers and stockholders of the Kanawha and Michigan Railroad, Toledo and Ohio Central Railroad, and Hocking Valley Railroad, and financed and floated by the banking house of J. P. Morgan & Co.

This coal company purchased most of the important coal mines on the Kanawha and Michigan Railroad in West Virginia, and then refused for a period of about three years, to allow any new company or owner of coal land on its line to develop any property or ship any coal, stating through their attorneys in open court and through their officers at different times, that they did not intend to allow any new coal mines opened on their line. To curtail the shipment of rail coal in competition with them, they went so far as to tear up the tracks at Plymouth mine, West Virginia, 18 miles below Charleston and at the mines of the Black Diamond Coal Company, about 12 miles above Charleston, so that these companies could not ship coal by rail at all; and they have, up to the present time, refused to put the tracks in again.

The Kelleys Creek Colliery Company, developing a plant about 18 miles above Charleston, and the Hughes Creek Coal Company, developing a plant about 21 miles above Charleston, were refused any kind of side tracks or facilities for shipping coal until after lengthy litigation, and then only after these companies had been put to very extraordinary expense by being required to purchase a number of standard-gauge railroad cars. The Burning Springs Coal Company were treated in like manner, and Johnson Brothers, of Columbus, Ohio, were treated likewise, having been refused side tracks at their mine for something over a year after they were ready to ship coal, and did not get the track until at the end of protracted and expensive litigation.

The M. A. Hanna Coal Company, of Boomer, W. Va., on the Kanawha and Michigan Railroad, found it necessary to purchase 500 cars of their own before they could do business with any satisfaction.

One large independent coal concern on the Kanawha and Michigan Railroad offered to furnish that company its fuel coal for less than 75 cents a ton, when it was at the same time paying the Kanawha and Hocking $1.05 per ton, but the officers of the road refused to purchase its fuel coal from any company except its own, Kanawha and Hocking Company; the same gentleman being at the time president of the Kanawha and Michigan Railroad and of the Kanawha and Hocking Coal Company, the same gentleman purchasing agent and the same auditor. All of which shows conclusively that the coal company is absolutely controlled and owned by the railroad, and is being operated with an open intention and avowal of crushing out the independent operators and all competitors.

All of these and other similar facts can be ascertained by summoning the following witnesses:

Thomas Johnson, of Johnson Brothers, Columbus, Ohio; J. B. Lewis, Montgomery, W. Va.; S. H. Montgomery, Montgomery, W. Va.; V. S. Klick, Columbus, Ohio, 898 Factory street; J. W. Moore, Roe, W. Va.; Arthur Robinson, Coalburg, W. Va.; E. J. Hickey Transportation Company, Covington, Va.; George W. Bright, Columbus, Ohio; J. S. Stone, Columbus, Ohio; Charles Willis Ward, Queens, Long Island, N. Y.; J. W. Dawson, Charleston, W. Va.; F. M. Staunton, Charleston, W. Va.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following act:

On March 22:

S. 4229. An act to authorize the sale and disposition of surplus or unallotted lands of the diminished Colville Indian Reservation, in the State of Washington, and for other purposes.

HOUSE BILLS REFERRED.

H. R. 16671. An act permitting the building of a dam across the St. Joseph River near the village of Berrien Springs, Berrien County, Mich., was read twice by its title, and referred to the Committee on Commerce.

H. R. 17359. An act making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

FREE TRANSPORTATION ON RAILROADS.

The VICE-PRESIDENT. The Chair lays before the Senate a resolution coming over from yesterday, which will be read.

Th Secretary read the resolution submitted yesterday by Mr. TILLMAN, as follows:

Resolved, That the Interstate Commerce Commission be, and hereby is, directed to transmit to the Senate all information in the possession of the Commission showing that any railroad companies of the country engaged in interstate commerce are in the habit of receiving payments for the transportation of passengers not in cash paid for tickets but in services rendered under some form of prior agreement between the railroads and the individuals or corporations using the transportation, and particularly all information showing that a custom has existed or now exists on the part of the railroad companies of entering into advertising contracts with the proprietors of newspapers and other publications under which free passes or passage tickets or mileage books are furnished to such proprietors and charged to their account, to be paid for by publishing for the railroads their time-tables, notices of excursions, descriptions of scenery and other miscellaneous reading matter, which publishing is charged to the account of the railroads, so that a system of running accounts to be adjusted at convenience is established between the railroads and the proprietors of the newspapers and other publications; and further to inform the Senate to what extent such customs of not collecting payments for passenger fares in money and of keeping running accounts has prevailed or now prevails between the railroads and the proprietors of newspapers and other publications, and whether such customs are contrary to the interstate-commerce law, and whether any proceedings have been at any time taken by the Interstate Commerce Commission in respect to such customs; and also to transmit to the Senate the reports and opinions of the Commission in any cases concerning such customs which have been heretofore examined and considered or are still pending and undecided in whole or in part, together with the reasons for any delay that has taken place in any such cases and the reasons for any failures on the part of the Commission to investigate and deal with any illegalities in connection with passenger transportation which may have come to the knowledge of the Commission.

The VICE-PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate and proceeded with.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved

February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. KNOX. Mr. President——

Mr. CLAPP. Will the Senator from Pennsylvania yield to me for a moment?

Mr. KNOX. Certainly.

Mr. CLAPP. Yesterday I gave notice that I would ask leave to call up the conference report on House bill 5976 at the close of the morning business to-day. Out of deference to the desire of the Senator from Pennsylvania to proceed, I will now give notice that at the conclusion of his remarks I shall call up the conference report.

Mr. KNOX. Mr. President, the necessity for a detailed consideration of many of the serious and important legal propositions upon which the bill under consideration rests has been obviated by the lucid and masterful presentation of the views of Senators who have preceded me in this debate. I shall endeavor, therefore, in what I have to say, to avoid repetition of what has been so ably discussed, except so far as bare allusion to some of the great questions is necessary in the substructure of the theory I entertain as to the policy and constitutionality of the great measure we are now considering. I agree with the Senators who have contended, first, that the power to fix railroad tolls for transportation is a legislative power, and that when the legislature has laid down a rule for the establishment of rates the application of such rule to specific cases is a matter of administration which may be delegated to a commission; and, second, that the power to investigate the reasonableness of a proposed rate, and to fix a rate for future observance, is a nonjudicial power which can not be conferred upon courts exercising the judicial power of the United States.

The authorities cited by Senators fully sustain these propositions. Their soundness is essential to the validity of the proposed legislation, and the present question is whether the reported bill in its essential features is securely predicated upon these principles, is otherwise innocuous when submitted to constitutional tests, and whether it properly supplements the existing laws.

Upon the threshold of this inquiry I think it will be instructive to take a general view of the purposes of the law which created the Interstate Commerce Commission and the powers and duties the Commission now possesses and performs.

In the case of the Interstate Commerce Commission *v.* Cincinnati, etc., Rwy. Co. (167 U. S., 506) the court said:

> The Interstate Commerce Commission is *charged with the duty of seeing* that there is no *discrimination* between individual shippers, and that nothing is done by *rebate or any other device* to give preference to one as against another; that no undue preferences are given to one place or places or individual or class of individuals, but that in all things that equality of right, which is the great purpose of the interstate-commerce act, shall be secured to all shippers.

To these ends the Commission now has, *inter alia*, the following powers:

First. *The power to investigate* matters complained of in such a manner and by such means as it shall deem proper.

> *The Commission is to keep itself thoroughly informed* as to all the operations of every common carrier in the United States engaged in interstate commerce; and *whenever* in the course of its *investigations* it discovers abuses which affect the public commercial interests injuriously, its duty is at once to have such abuses suppressed, and, if need be, to call in the strong arm of the Government, through its appointed courts, to enforce the provisions of the law. (United States *v.* Missouri Pacific Railway Co., 65 F. R., 909.)

Second. The *power to require* by subpœna the *attendance and testimony* of witnesses from any place in the United States, *and the production of* all *books*, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and in case of disobedience of the subpœna, to invoke the aid of the United States courts.

This power is conferred in section 12 of the act as amended (25 Stat., 859), and includes the affirmed constitutionality of the law requiring the participant in a criminal transaction to testify in regard thereto, such enforced testimony having the effect, however, of giving the witness complete immunity. (Sec. 12 as amended, 26 Stat., 743; and act of Feb. 11, 1893, 27 Stat., 443.)

Third. *The power to inquire into the management* of the business of all common carriers subject to the provisions of the interstate-commerce act, *to keep itself informed* as to the manner and method in which the same is being conducted, *and to obtain* from the carriers full and complete *information* to enable it, the Commission, to perform its duties. (Sec. 12 as amended, 25 Stat., 858.)

Fourth. *The power to prescribe* the *measure of publicity to be given to joint rates, fares, and charges, to make public proposed advances* or reductions in joint rates, fares, and charges, and to determine and prescribe the *form of schedules* as to rates, etc., to be kept open for public inspection. (Sec. 6 as amended, 25 Stat., 856, 857.)

Fifth. *To require annual reports* from carriers, to fix the time and *prescribe the manner* in which such report shall be made, and to *require specific answers* to all questions upon which the Commission may need information. (Sec. 20, 24 Stat., 386.) This section also authorizes the Commission to *prescribe a uniform system of keeping accounts*, to be observed by the carriers.

Sixth. To conduct its proceedings in such manner as will best conduce to the proper dispatch of business, *and to make* or amend such *general rules or orders* as may be requisite in proceedings before the Commission. (Sec. 17 as amended, 25 Stat., 861.)

Seventh. *To direct* common carriers to cease and *desist from violations* of the interstate-commerce *law* and to make reparation for the injury found to have been done. (Sec. 15, 24 Stat., 384.)

Eighth. *To apply to the circuit court* in a summary way *for an enforcement of its orders* (sec. 16 as amended, 25 Stat., 859); and the Commission is directed to execute and enforce the provisions of the act (sec. 12 as amended, 25 Stat., 858), not, however, by attempting to enforce its own decrees and orders, but by calling upon the district attorneys for their enforcement. (United States *v.* Mo. Pac. Rwy. Co., 65 F. R., 909).

The powers, Mr. President, which I have enumerated I have expressed either in the language of the statutes or in the language of the Supreme Court construing the statutes.

Very broadly speaking, Mr. President, it will be observed from this rough review of its powers that the Commission possesses abundant power to seek and discover deviations from the great purpose of the act to secure equality of right for all, but it wholly lacks power to enforce its orders and decrees, and that its orders and decrees do not have the force of law until made so by judicial decree.

The President in his annual message to the third session of the Fifty-eighth Congress called attention of the Congress to the advisability of expanding the powers of the Interstate Commerce Commission, and again in his message to the present Congress, in these words:

> It is not my province to indicate the exact terms of the law which should be enacted; but I call the attention of the Congress to certain existing conditions with which it is desirable to deal. In my judgment the most important provision which such law should contain is that conferring upon some competent administrative body the power to decide, upon the case being brought before it, whether a given rate prescribed by a railroad is reasonable and just, and if it is found to be unreasonable and unjust, then, after full investigation of the complaint, to prescribe the limit of rate beyond which it shall not be lawful to go—the maximum reasonable rate, as it is commonly called—this decision to go into effect within a reasonable time and to obtain from thence onward, subject to review by the courts.

This suggestion was no surprise to me, as I regarded it the next logical step to be taken in the development of the executive and legislative policy which had been already manifested in proceedings to enforce existing laws and the new legislation of the Fifty-seventh Congress regulating commerce among the States.

This Executive recommendation made it incumbent upon every Member of Congress to give such attention to the subject as would enable him to intelligently determine whether his judgment approved the suggestion of increased power to the Commission, and, if so, the extent to which it should be conferred and how, if at all, its exercise should be supervised.

After giving the subject serious consideration I ventured to publicly express the opinion that the proposition that the National Government should exercise supervisory control over the tax upon transportation became almost self-evident from the time that the railroads began, through various devices, to concentrate this taxing power in the hands of a few men; that the Government's efforts to check this concentration of power under the provisions of existing laws should be supplemented by legislation which will prevent the abuse of the power of taxing the movement of persons and property under any form of concentration or under any circumstances whatever, and that a short and simple law would reach the root of the trouble. That it should provide that the tolls collected by common carriers and the practices pursued by them should be just, fair, and reasonable.

That the Commission should have the power, if it finds the complaint well founded, to declare what shall be a just, fairly remunerative, and reasonable rate or practice to be charged or followed in place of the one declared to be unreasonable.

That this order of the Commission should take effect within such reasonable time as shall be prescribed by the Commission in the order, and should be final, subject only to attack for unlawfulness in the Federal courts, where it would have to stand or fall upon its merits, and that such an act, with suita-

ble provision for the regulation of joint rates and rates upon traffic of international carriers, would go to the full extent of, and no further than, the recommendations made by the President.

Subsequently these tentative suggestions were elaborated in a bill which I introduced, and to the provisions of which I shall refer as an expression of my views upon the general subject. The bill to which I refer, in my judgment, comprehends and deals with the mischiefs for which we are seeking a remedy more effectually than any measure yet brought to the attention of Congress. It is broader and more comprehensive in its scope because it is as broad and comprehensive as the regulative power of Congress under the Constitution. Its provisions include the class of carriers which it describes, engaged in any commerce to which the regulative power of Congress extends under the Constitution, and to all the facilities and instrumentalities connected therewith to which the regulative power of Congress extends, whether they are owned or provided by the carrier or not. It provides for just, reasonable, and nondiscriminating charges and services in transportation, or in connection therewith, from the instant of time that goods are separated from the body of the property of the State from which they are to be transported and pass the line which marks the beginning of Congressional authority, and covers as well the receiving, delivering, storage, or handling of goods before actual transit begins, the transit itself and all charges and expenses and practices relating to or incident to the delivery of such goods in the State to which they are consigned, up until the instant of time when they pass out of the regulative power of Congress into the body of the property of the State where they are delivered and are no longer subject to national control.

The theory upon which this bill was drawn is that general words in a statute which are sufficiently comprehensive to cover the evil aimed at, in whatever form it may possibly appear, makes better and more effective legislation than specific prohibition of the evil in the forms in which it has appeared. The recent decision of the Supreme Court in the Chesapeake and Ohio Railroad coal cases construing the general words of prohibition against discrimination in the Elkins Act, and the decision in the Northern Securities case construing the general words of prohibition in the Sherman Act, confirm the wisdom of this method of legislation.

The bill follows the recommendations contained in the President's message and clearly provides that the Interstate Commerce Commission shall have power after full hearing upon complaint to set aside any rate, practice, or regulation found by it to be unjust, unreasonable, or discriminatory, and to substitute in its place one that is just, reasonable, and fairly remunerative, which by the terms of the bill then, upon a date fixed by the Commission, becomes the maximum rate to be charged or the practice to be observed by the carrier. In its provision as to the establishment of through routes where none exist, and the establishment of joint rates when carriers fail to agree upon the same, and as to penalties and appeals, the employment of special agents or examiners with power to administer oaths, there is very little essential difference between its provisions and the provisions of the bill under consideration, and I shall not now stop to point out those differences or to contend that they are more perfectly and efficiently provided for.

After calling attention to its tenth section, which is designed to control the movement of traffic over railroads operating in part in a foreign country, in order to compel obedience to the orders of the Commission, I shall come at once to the fifth section, which provides for what has been popularly termed a court review, the omission of which in the Hepburn bill constitutes the main feature of difference between the two measures.

It is obvious that a law conferring the tremendous power which it is proposed by all the bills under consideration to confer upon the Commission, to substitute one rate or practice for another, must be drawn upon one of two theories: Upon the theory that the order of the Commission shall be final and not reviewable by the courts or upon the theory that it shall be reviewable by the courts. I have no hesitation in saying, upon the authority of the cases which have already been submitted to the Senate by the distinguished Senators who have participated in this debate, that a bill drawn upon the theory that the orders of the Commission shall be final and unassailable in the courts would be unconstitutional.

In Covington, etc., Turnpike Company *v.* Sandford (164 U. S., 592) the court said:

> It is now settled that corporations are persons within the meaning of the constitutional provision forbidding the deprivation of property without due process of law, as well as a denial of the equal protection of the laws.

And in Chicago, Milwaukee, etc., Railway *v.* Tompkins (176 U. S., 172) the court said:

> When we recall that, as estimated, over ten thousand millions of dollars are invested in railroad property, the proposition that such a vast amount of property is beyond the protecting clauses of the Constitution, that the owners may be deprived of it by the arbitrary enactment of any legislature, State, or nation, without any right of appeal to the courts, is one which can not for a moment be tolerated.

In Chicago, Milwaukee and St. Paul Railway Company *v.* Minnesota (134 U. S., 458) the court said:

> If the company is deprived of charging reasonable rates for the use of its property, and such deprivation takes place in the absence of an investigation by judicial machinery, it is deprived of the lawful use of its property, and thus, in substance and effect of the property itself, without due process of law and in violation of the Constitution of the United States; and in so far as it is thus deprived, while other persons are permitted to receive reasonable profits upon their invested capital, the company is deprived of the equal protection of the laws.
>
> The question of the reasonableness of a rate of charge for transportation by a railroad company, involving as it does the element of reasonableness both as regards the company and as regards the public, is eminently a question for judicial investigation, requiring due process of law for its determination.

From the decisions of the Supreme Court it will be seen that railroads have a constitutional right to just compensation for services rendered, and that by direct act of legislation, or indirectly through an administrative body, as through the Interstate Commerce Commission, they can not be deprived of this right. That they are entitled to their day in court, and that an act which prevents a judicial review or determination of the question of the reasonableness of an order of the Commission would deprive the carriers of this constitutional right, and would, therefore, be unconstitutional.

Being thus convinced of the unconstitutionality of a law designed to make the orders of the Commission final and not subject to court review, it seemed to me to be proper and rational, if not essential, that the act should provide for that review and throw about it such constitutional restrictions and terms as would prevent unnecessary and frivolous appeals to the courts to defeat the end of this remedial legislation, and this I undertook to do in the fifth section of the bill. That section provides that the orders of the Commission, except orders for the payment of money, which for obvious reasons must be excluded, shall take effect at a date to be fixed by the Commission, and shall continue in effect for a period of time fixed by the Commission, not exceeding two years, unless the Commission itself shall set them aside or they shall be set aside by a court in a suit to test their lawfulness. The method of testing their lawfulness is then prescribed. The right is given to any party to the proceedings, whether it be a municipality, an agricultural association, a mercantile association, a shipper, a carrier, or the owner of some instrumentality necessary or incident to the transportation, who is affected by the decision of the Commission as to the rate and practice covered by the complaint, or by its order prescribing a different rate or practice, and alleging either or both to be in violation of its or his rights, to institute a suit in equity in the circuit court of the United States to have such questions determined.

I desire to draw special attention to the fact that the question that can be submitted to the determination of the court is solely the question as to whether the order violates the rights of the party who institutes the proceedings. There is no attempt to define what those rights are. There is no attempt to expand or to contract them. It is the heritage of every English-speaking man, or association of men, to have his rights determined in a court. It is for the court to decide what those rights are. An attempt to specify what right shall be determined by the court might be fatal to the constitutionality of the legislation. If the specification should not include all his rights, he would be shorn of a constitutional privilege. Should it undertake to enumerate rights which he could not establish, it would be meaningless and unintelligent legislation.

Mr. DANIEL. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Virginia?

Mr. DANIEL. I should like to ask the Senator a question, if it will not interrupt him.

Mr. KNOX. I would rather proceed with my remarks if the Senator will be kind enough to defer his question until later on.

Mr. DANIEL. Very well.

Mr. KNOX. If his rights are determined solely by the Constitution, that instrument would be the measure employed in their determination. If he has rights vested upon some other foundation, a limitation placed upon him to have nothing but his constitutional rights determined, would be a fatal objection.

It seems to me to be wise, both as an indication of legislative intention that the orders of the Commission were not to be inconsiderately disturbed, as well as a provision of protection, to

the public, to provide against the suspension of the Commission's orders by interlocutory decrees, without requiring a cash deposit or a bond to secure to the parties entitled to repayment, the difference between the Commission's rate and the railroad rate if the Commission's rate were sustained; and to that end the proviso of the fifth section has been inserted, which carries in its terms a direction to the court to regulate the practice of the parties pending the litigation, in order to make these rights of repayment certain and effective. I do not share the oft-expressed opinion that the courts, even in the absence of such a provision, would lightly deal with the orders of the Commission.

The disposition among Federal judges to grant preliminary injunctions without hearing and for trifling reasons is one I have not observed in my experience, and while I accept, of course, as true the statements made by Senators as to their own experience and observation, I think the situation presented to a court in an application to set aside an order of the Commission made under authority of law would be essentially different from the one presented in ordinary litigation between man and man. It must be remembered that the Commission would be exercising a power delegated to it by Congress; that its findings would have the prima facie force of an act of Congress, not to be suspended, disturbed, or modified, except upon that *quantum* of proof necessary to overthrow the findings of a master in chancery or the verdict of a jury. I should be amazed, if this power is given to the Commission, to find any circuit court take any view other than the one I have expressed. Section 14 of the act to regulate commerce expressly provides that the Commission's findings shall be deemed *prima facie* evidence as to each fact found in all judicial proceedings.

While thus far I have done little more than indicate my attitude toward this legislation and a preference for the bill I have introduced as a comprehensive measure, and one most likely to prevent discrimination or preferences between individuals by devices worked out through the accessories to commercial intercourse, and to secure "in all things that equality of right which is the great purpose of the interstate commerce act," and, as well, most likely to escape the construction, so frequently encountered in courts, that the particular evil complained of was not covered by the terms of the law, yet I have referred to it here so much in detail solely with the hope that as a contribution to the general fund it might be of use in adjusting the bill which has been reported to the requirements of the situation.

Up to this time, after having referred to the movement and policy which has logically led to legislation such as is generally proposed in the reported bill, I have undertaken to show in a general way the purposes for which the Interstate Commerce Commission was originally created, the powers which it possesses to effectuate those purposes, and in what direction, in my judgment, those powers should be expanded in order to establish a workable and understandable code of commercial regulation and a type of a bill adapted to the situation. I have contended that a law authorizing the Commission to set aside rates and practices upon complaint, and to substitute others in their stead, must proceed either upon the theory of the Commission's action being final, or upon the theory that it must be subjected to review in the courts. I have, using the bill I introduced as a text, spoken in some detail of its provisions and pointed out that it was drawn upon the constitutional theory of subjecting the orders of the Commission to a court review.

I shall now take up the pending bill and endeavor to ascertain from its provisions whether or not it contemplates such review, and if a review by the courts was contemplated by its proponents, whether they have succeeded in providing for or preventing one, and whether or not to make that bill constitutional such a review is necessary.

I have no words but words of praise for the distinguished Senators who have given their time and great abilities in the work of preparation of this proposed great remedial law. I am in hearty sympathy with the purposes with which they were inspired, but I am sincerely convinced that the bill as it now stands utterly fails to accomplish their beneficent purposes, and, indeed, wholly defeats them.

That the sponsors for this measure conscientiously believed that they had prepared a bill providing unrestricted and unlimited power in the courts, quoting its language in the venue clause, page 17, lines 10 to 14, "to enjoin, set aside, annul, or suspend any order or requirement of the Commission," is indisputable because of their statements to that effect. Mr. HEPBURN, in closing the debate in the House (RECORD, p. 2651), replying to a question of Mr. SULLIVAN of Massachusetts, stated there was no doubt of the power of the court to review the reasonableness of a rate fixed by the Commission. I quote from the RECORD:

Mr. SULLIVAN of Massachusetts. Then, in your opinion, the court, under this bill, if it becomes law, will have the right to enjoin a rate fixed by the Commission if it is unreasonably low but yet does not amount to confiscation?

Mr. HEPBURN. I think there is no doubt about that.

The junior Senator from Minnesota [Mr. CLAPP] is, I understand, in complete accord with Mr. HEPBURN upon this point, and I understand, also, that the junior Senator from Iowa [Mr. DOLLIVER] takes the same position.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Iowa?

Mr. DOLLIVER. If it will not interrupt the Senator——

Mr. KNOX. It will not interrupt me.

Mr. DOLLIVER. I feel impelled to disclaim entertaining that view if it is interpreted as I understand the Senator from Pennsylvania interprets it. The Supreme Court have decided in the Maximum Rate cases that an unfair and unjust rate is an essential deprivation of the carrier's property. I have no doubt they would review the order from that standpoint if the question were presented under the pending bill, but I do not go to the extreme of saying that the court would review the reasonableness of the rate with the view of substituting its discretion for the discretion confided by this bill to the Commission to determine the question whether a disputed rate is just and reasonable.

Mr. KNOX. The Senator from Iowa has stated very much more clearly than I have myself been able so far to state exactly what I understand to be his position.

If this is a correct construction of the bill, it is obvious that, so far as court review is concerned, the only point of difference between these gentlemen and myself is that I stand for a restricted power of the court to set aside the Commission's order while they propose an unrestricted power to that end.

I have ventured the opinion heretofore that I regarded the bill under consideration unconstitutional. I now repeat that opinion, and for the following reasons:

First. It does not provide any method for challenging the unlawfulness of the orders of the Commission in a direct proceeding against the Commission.

Second. It prohibits parties affected and aggrieved by the Commission's orders from defending proceedings to enforce them upon the ground of their unlawfulness.

Third. It so heavily penalizes the disobedience of the Commission's orders as to make any attempt to secure a judicial hearing in any form of proceeding impracticable. These reasons combined manifest such an intention to exclude inquiry into the lawfulness of the acts of the Commission as to bring the measure within the principle decided in the case of the Chicago, etc., Ry. *v.* Minnesota (134 U. S.), namely, that where the statute deprives the carrier "of its right to a judicial investigation, by due process of law, under the forms and with the machinery provided by the wisdom of successive ages for the investigation judicially of the truth of a matter in controversy it conflicts with the Constitution of the United States."

It is not possible to find in the bill a single word conferring jurisdiction upon any court to entertain a suit of any party aggrieved by any order of the Commission. Although the Commission is given power to sue in several cases, in no case is it made subject to suit. It may sue to enforce its order, but the parties bound by the order can only deny the fact that the order was regularly made.

How can a Commission administering a law of Congress be sued without the consent of Congress? What interest has it in an order after it is made? How can a case or controversy exist between it and a carrier after it has performed its duties under the act? If it is replied that it is the Commission's duty to enforce its orders by proceedings in court, my answer is that it is not a duty under the terms of the bill, but a discretion, and in such proceedings it is but a nominal party. Indeed, it is not necessary for it to be a party at all, as the right to enforce the order is expressly given to the Commission, or any party *injured* through its disobedience, and the bill expressly provides that the merits of the order can not be tried in such proceedings.

The fact is that under the bill the orders of the Commission can only get into court in two ways. One I have just indicated, in which the carrier can not defend. The other is by a suit by the United States to collect penalties for disobedience of the orders. Both are by preceedings against the carrier. In no way can the order be brought into court by proceedings against the Commission.

It is clearly the purpose of the bill to preclude in proceedings by the United States to collect penalties any consideration by the courts of the validity of the order of the Commission, and indeed it would be a curious consequence if an order made by the Commission could be practically annulled in a proceeding by the United States against the carrier to enforce the penalty,

to which neither the Commission nor the party who made the complaint was a party. But apart from this consideration, it is evident that a carrier could not afford to take the chances incident to testing the Commission's order in a proceeding to collect these penalties because of the extent to which it would be penalized if its contention should not be sustained by the courts.

The bill confers no right of review whatever upon the initiative of the carrier. It seems to assume the existence of some right in the carrier to institute a proceeding in the courts for the suspension or setting aside of the Commission's order, for in section 16 it is provided that the Commission's order shall take effect thirty days after service of notice thereof upon the carriers affected thereby "*unless such orders shall have been suspended or modified by the Commission, or suspended or set aside by the order or decree of a court of competent jurisdiction.*"

Is it not clear that in the absence of a grant of power to the courts to review the Commission's order in a proceeding brought to have it set aside, the courts, under the peculiar frame of this bill, which imposes no duty upon the Commission or anyone to enforce the order, could not entertain a suit brought for that purpose? *Unless and until* the Commission should itself move for the enforcement of the order, the carrier by failing to comply therewith would not have a standing in equity to set it aside. And when the Commission does move for the enforcement of the order the bill prohibits a defense upon the ground of its unlawfulness.

The sole ground upon which a claim to relief at the hands of a court of equity could rest would seem to be that the continued existence of the order was a menace to the carrier because of the penalties that might be recoverable for its failure to comply therewith. But how could a court of equity interfere merely to relieve the carrier from an action to recover penalties or to restrain the United States from prosecuting such an action?

The difficulties in the way of any procedure at the instance of the carrier, intended to get rid of the effect of any order of the Commission (unless such procedure is specially authorized), will be apparent when we consider what relief the courts could afford, supposing that some ground for equitable relief could be found.

A proceeding to restrain the Commission from proceeding to enforce compliance with its order would be of no avail, if the Commission should answer that it did not propose so to proceed.

A proceeding to restrain the United States from bringing an action to recover the penalties could not be sustained.

Nor could a proceeding be sustained the only purpose of which was to secure a declaration upon the part of the court that the Commission had reached a wrong conclusion, and that consequently its order was an unlawful one. There could not be coupled with any such declaration any coercive or effective order which could compel the Commission to annul or modify its order. And if this could not be brought about, resort could not be had to a court of equity merely for the purpose of securing a declaration by it that an order made by an administrative body was unlawful, to be coupled with or followed by no action relieving the carrier from the effects of such order.

In all the cases in which relief has been granted to carriers against orders of commissions *some order was possible restraining or enjoining some action upon the part of the commission whose order had been attacked.*

In the case of Southern Pacific Company *v.* Board of Railroad Commissioners (78 Fed. Rep., 236) it was contended upon the part of the board that a certain order it had made reducing rates could not be enjoined, because the board had no further office or duty to perform in respect to the subject-matter of the order. In dealing with this contention Judge (now Justice) McKenna said:

> The grain schedule was served and the twenty days prescribed by statute after which the rates should go into effect had not expired when the bill was filed. Were there yet any acts or duties to be performed by the board? *It is very clear that if there was nothing left to be performed—if the rates had become the law to be enforced by other officers than the commissioners—there was nothing to be enjoined in a suit against the commissioners.*

And in the case of L. & N. Railroad Co. *v.* McChord (103 Fed. Rep., 216) the circuit court of the United States for the district of Kentucky enjoined a board of State commissioners from acting under a statute of Kentucky, because in the opinion of the court no opportunity was afforded to any railroad company affected by an order of the commissioners to have the same reveiwed by the courts. In this case the circuit court was unable to find any warrant for the contention that after its order had been promulgated the commission had any further duty to perform, and its conclusion as to the effect of this was thus stated:

> It is indeed manifest from the entire scope and plan of the enactment, and its operation upon mere isolated cases only, that it was the purpose to exclude all inquiry upon that subject after the commission had acted, and to enforce by rigorous and extravagant penalties the rates thus fixed, however reasonably and earnestly the railroads might desire to promptly have the question of the justness of those rates finally determined by a judicial inquiry. Upon the principles so often and so emphatically announced by the Supreme Court, this purpose thus plainly written in the legislation must be fatal to its validity.

The Supreme Court set aside the injunction thus granted (McChord *v.* L. and N. Railroad Company et al., 183 U. S. 483) not because it differed from the circuit court as to the invalidity of the act construed as the circuit court had construed it—on this point no opinion was expressed, but because it held that action on the part of the commissioners was necessary for the enforcement of any order made by them, and consequently that an opportunity would be afforded to initiate proceedings to enjoin such orders.

> The result of these considerations—

To quote from the court's opinion—

> is that the duty of enforcing its rates rests on the commission, and that none of the consequences alleged to be threatened can be set up as the basis of equity interposition before the rates are fixed at all.

Unless the order itself could be got rid of, how could a mere declaration of a court of equity that it was unlawful be availed of by the carrier in an action brought by the United States to recover penalties claimed to be incurred because of the nonobservance of the Commission's order? The declaration that it was unlawful would have been made in a proceeding to which the United States was not a party, and if for any reason the Attorney-General did not consider that he should be governed thereby, he could have the question of the lawfulness of the Commission's order determined in a proceeding to collect the penalties, in which he could be heard and in which a court of law might, as it certainly could, reach a conclusion in favor of the lawfulness of the Commission's order, in direct opposition to the declaration of a court of equity.

The conclusion seems inevitable that, unless some special method of procedure is provided for in the act which will afford to a carrier the right to have an order of the Commission effectively reviewed and dealt with by the courts, no effective remedy is available.

Unless the courts are empowered, in a proceeding brought with this object in view by the carrier, to suspend, set aside, or modify an order of the Commission, the carrier is practically without remedy, for it can not be otherwise relieved from the coercive effect upon it of the danger that, after all and in the last analysis, the lawfulness of the Commission's order (if this question can be raised at all) will have to be determined in an action brought by the United States to recover the penalties imposed by the act—a danger which, considering the amount that may be recovered, it can not afford to incur.

Even, therefore, if the lawfulness of the Commission's order could be raised in a proceeding brought by the United States to collect these penalties, the remedy thus afforded to the carrier would be utterly inadequate. It would be such a remedy as that adverted to in the opinion of Mr. Justice Brewer in the case of Cotting *v.* Kansas City Stock Yards Company (183 U. S., 79).

> It is doubtless true—

Said Mr. Justice Brewer in that case—

> that the State may impose penalties such as will tend to compel obedience to its mandates by all, individuals or corporations, and if extreme and cumulative penalties are imposed only after there has been a final determination of the validity of the statute, the question would be very different from that here presented. But when the legislature, in an effort to prevent any inquiry of the validity of a particular statute, so burdens any challenge thereof in the courts that the party affected is necessarily constrained to submit rather than take the chances of the penalties imposed, then it becomes a serious question whether the party is not deprived of the equal protection of the laws.

But, as already pointed out, no inquiry into the lawfulness of the Commission's orders would be possible in actions for the penalties imposed by the bill.

That the bill as it now stands is not only unfair, in respect to the question of review, but is also unconstitutional, seems to be clear. The decision of the Supreme Court in the case of Chicago, Milwaukee and St. Paul Railway Company *v.* Minnesota (134 U. S., p. 418) would seem to settle this.

In that case the railway commission of Minnesota, acting under a statute of that State, after a hearing upon complaint and answer, found that a certain rate should be thereafter charged, which rate the Chicago, Milwaukee and St. Paul Railway Company, the carrier affected by such order, declined to put in force. Thereupon the commission, following the procedure which the act authorized, applied for a mandamus to compel the railway company to publish the rate which it had prescribed. The railway company set up in its return to the alternative writ that the rate which it had had in force was a reasonable, fair, and just rate and that the rate which it had been directed by the commission to promulgate was not a

reasonable or fair or just rate and that the establishment of this rate by the commission amounted to a taking of the railway company's property without due process of law.

The Supreme Court of the United States, in passing upon the questions involved, held, in the first place, that it was concluded by the construction put upon the statute by the supreme court of Minnesota, and that consequently it must assume that it was the intention of the statute (provided the commission proceeded in the manner pointed out therein) to make the rates, which it directed should be enforced, as the Supreme Court put it in its opinion, "not simply advisory, nor merely prima facie equal and reasonable, but final and conclusive as to what are equal and reasonable charges; that the law neither contemplated nor allowed any issue to be made or inquiry to be had as to their equality or reasonableness in fact; that under the statute the rates published by the commission are the only ones that are lawful, and therefore in contemplation of law the only ones that are equal and reasonable, and that in a proceeding for mandamus under the statute there is no fact to traverse except the violation of law in not complying with the recommendations of the commission."

Accepting this as the effect which it was bound to give the statute, the court held that so construed it was in conflict with the Constitution of the United States.

This being the construction—

Said Mr. Justice Blatchford, delivering the opinion of the court—

of the statute by which we are bound in considering the present case, we are of opinion that, so construed, it conflicts with the Constitution of the United States in the particulars complained of by the railroad company. It deprives the company of its right to a judicial investigation, by due process of law, under the forms and with the machinery provided by the wisdom of successive ages for the investigation judicially of the truth of a matter in controversy, and substitutes therefor, as an absolute finality, the action of a railroad commission which, in view of the powers conceded to it by the State court, can not be regarded as clothed with judicial functions or possessing the machinery of a court of justice.

In the opinion reference is made to the fact that the statute permitted the commission to promulgate a rate in place of one found by it to be unreasonable without having first accorded the carrier an opportunity to be heard; but this fact could have no controlling effect upon the decision, because the commission had, in the case of the rate at issue, promulgated it after hearing the carrier's side of the case.

In the concurring opinion delivered by Mr. Justice Miller it appears very clearly that he was governed in reaching his conclusion by what he regarded as the unlawfulness of the attempt made to deprive the carrier of any review of the commission's order by the courts. This is apparent from the following extract from his opinion:

I do not agree that it was necessary to the validity of the action of the commission that previous notice should have been given to all common carriers interested in the rates to be established, nor to any particular one of them, any more than it would have been necessary, which I think is not, for the legislature to have given such notice if it had established such rates by legislative enactment.

But when the question becomes a judicial one and the validity and justice of these rates are to be established or rejected by the judgment of a court, it is necessary that the railroad corporations interested in the fare to be considered should have notice and have a right to be heard on the question relating to such fare, which I have pointed out is a judicial question. For the refusal of the supreme court of Minnesota to receive evidence on this subject I think the cause ought to be reversed, on the ground that this is a denial of due process of law in a proceeding which takes the property of the company, and if this is a just construction of the statute of Minnesota it is for that reason void.

Mr. President, I ask Senators to make especial note of the fact that this question was raised in a proceeding to enforce the commission's order, and a denial of the right to defend on the merits was held to invalidate the law. The right to defend on the merits in such a case is expressly withheld in the bill we are considering.

While the courts have upheld acts of Congress conferring final power upon administrative officers, they have refused to do so when the orders of such officers affected rights secured or recognized by the Constitution.

Thus in Wong Wing *v.* United States (163 U. S., 228) the Supreme Court while recognizing its previous decisions as to the conclusive effect of decisions of the officers charged with the duty of enforcing the Chinese exclusion acts, refused to extend the doctrine of these cases to an order of such officer committing one adjudged by him to have been guilty of a violation of the act to prison for a period of sixty days, although such order was authorized by the provisions of the act.

After referring to previous decisions of the court in which it had been determined that the deportation of aliens not entitled to be in the country did not constitute a deprivation of life, liberty, or property, Mr. Justice Shiras, who delivered the opinion of the court, said:

No limits can be put by the courts upon the power of Congress to protect, by summary methods, the country from the advent of aliens whose race or habits render them undesirable as citizens, or to expel such if they have already found their way into our land and unlawfully remain therein. But to declare unlawful residence within the country to be an infamous crime, punishable by deprivation of liberty and property, would be to pass out of the sphere of constitutional legislation, unless provision were made that the fact of guilt should be first established by a judicial trial. It is not consistent with the theory of our Government that the legislature should, after having defined an offense as an infamous crime, find the fact of guilt and adjudge the punishment by one of its own agents.

While the right of Congress to confer upon the Secretary of War final discretion as to approval of bridges over navigable streams has not been successfully challenged, when the question has arisen as to the finality of an order made by him pursuant to authority conferred upon him by Congress, requiring the removal or alteration of bridges upon the ground that they had become an obstruction to navigation, the courts have held that his decisions were subject to judicial review.

See United States *v.* Bridge Company (45 Fed. Rep., 178); United States *v.* Rider (50 Fed. Rep., 406).

In United States *v.* City of Moline (82 Fed. Rep., 592) Judge Grosscup thus dealt with the question of the authority of administrative bodies. He said:

In this case two questions alone arise: First. Is the bridge an obstruction to navigation? Second. Is it there by any such legal right that the Government may not interfere with it in the respect designated without just compensation? The first question is purely administrative, and is one that Congress can certainly delegate to the Secretary of War. A thousand questions of equal moment to the parties interested, and of equal difficulty, are necessarily delegated to the great Departments of the Government every month. In the very nature of things Congress can not dispose of them. A Government of the size of this, operated upon such a conception would be clogged immediately. The second question is, undoubtedly, judicial, and for that very reason is not subject, constitutionally, to the decision of Congress any more than of the Secretary of War. If the bridge be there by legal right—if it be a franchise or property that can not be taken except after just compensation—Congress is powerless, either by special or general acts, to touch it. In the face of such property right Congress is as helpless as the War Department. In the end such right, whether it be attacked by special act of Congress or by some action of the War Department, will, through some channel, find an appeal to the judiciary. This right of appeal to the judiciary in all questions in their nature judicial is preserved in the sections of the statute under discussion. The Secretary of War has no power to carry out his decisions respecting these obstructions except through a court. Any question, whether law or fact, essentially judicial, may be raised under these informations. A court of the United States stands always, by the clear provisions of the act, between the decision of the Secretary and its execution. There is, therefore, in the act no delegation of judicial power to the Secretary that is not open to review in the courts. I hold, therefore, that the act, so far as it is applicable to the case in hand, is constitutional and valid, and the motion to quash will be overruled.

The motion to quash, which Judge Grosscup overruled, was made upon the ground that the decision of the Secretary of War that the bridge in question amounted to a nuisance was, under the acts of Congress, a final determination of the matter, and that such decision was not open consequently to question or review in the courts. Because of his conclusion that this was not the case, Judge Grosscup refused to quash the information.

The principle is thus concisely stated in Murray's Lessee *v.* Hoboken Co. (18 Howard, 284):

To avoid misconstruction upon so grave a subject, we think it proper to state that *we do not consider Congress can either withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty;* nor, on the other hand, can it bring under the judicial power a matter which, from its nature, is not a subject for judicial determination. At the same time *there are matters, involving public rights,* which may be presented in such form that the judicial power is capable of acting on them, and *which are susceptible of judicial determination, but which Congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper.*

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Nevada?

Mr. KNOX. Certainly.

Mr. NEWLANDS. I understood the Senator from Pennsylvania a few moments ago to say that the right of the carrier to go into court and defend itself against the action of the Commission is expressly denied by the proposed act.

Mr. KNOX. The Senator misunderstood me, then. I said that the right of the carrier to defend, in a proceeding begun by the Commission to enforce its orders, is expressly denied by the proposed act.

Mr. NEWLANDS. Will the Senator kindly refer to that provision of the proposed statute?

Mr. KNOX. If the Senator will permit me to finish my remarks, I shall be very glad to do so.

Mr. NEWLANDS. Certainly. I do not wish to interrupt the Senator.

Mr. KNOX. I can indicate where the Senator can lay his hand on it. It is that provision of the statute which gives the,

Commission, or any person affected by an order of the Commission, the right to go into any circuit court of the United States and by mandamus or otherwise secure the enforcement of the order. But in such proceedings the right of the carrier or other person who is made defendant in the proceedings is limited to the question as to whether or not the order was regularly made, and not as to its lawfulness.

Mr. NEWLANDS. What section is it?

Mr. KNOX. Section 15, I believe.

Whatever the intentions of the framers of this bill may have been, they have succeeded in producing a measure which permits an administrative body to make orders affecting property rights, gives no right to the owners of the property to test their lawfulness in the courts in a direct proceeding, denies the right to challenge their lawfulness in proceedings to enforce them, and penalizes the owner of the property in the sum of $5,000 a day if it seeks a supposed remedy outside of the provisions of the bill by challenging either its constitutionality or the lawfulness of the acts performed under its provisions.

The conclusion to which I am irresistibly led for the reasons and upon the authority I have given is that such a measure is unconstitutional.

Mr. President, as Congress is now dealing for the first time with the proposition to confer upon its Commission the power to examine and readjust rates, it is instructive to observe the manner in which some of the States have dealt with the question of court review, as applied to the acts of their own State railroad commissions exercising similar powers. With the view of ascertaining to what extent such provisions are incorporated in the laws of these States, and also of learning the nature of such provisions, I recently caused to be prepared a statement showing the provisions in their statutes with regard to the review of the orders of State railroad commissions; and believing that this information would prove of value in the determination of the similar question now before this body, I presented the memorandum to the Senate, and it was made a Senate document.

That statement refers to the statutes of 16 States. It is, of course, impracticable for me to refer at length to each of these statutory provisions, but they have been summarized as follows:

In all the right of court review is affirmed, in some more comprehensively granted than in others, but in none wholly ignored. In Alabama the courts may examine into the reasonableness and justice of a commission's order, and appeal may be carried up to the supreme court of the State. The Arkansas statute allows the justice of the railroad tariff to be passed upon judicially. While the Florida law vests the railroad commission with judicial powers, it also provides that appeals "by either party" from judgments, orders, and decrees of inferior courts shall be to the same extent that appeals lie "in similar cases and suits brought under any other law of the State." Indiana provides for an appeal by "a dissatisfied company or party" to its highest tribunal. Kansas has a similar provision, and there, too, the courts may inquire whether the rate prescribed by the commission is "reasonable and just." Parties in interest may carry their case up to the supreme court of Louisiana "without regard to the amount involved."

In Minnesota the right of appeal to the supreme court is elaborately provided for. Mississippi also guards the right, and declares that in trials of cases "brought for a violation of any tariff of charges as fixed by the commission, it may be shown in defense that such tariff so fixed was unreasonable and unjust to the carrier." Missouri gives the reviewing court, if it holds and decides that the challenged order of the railroad commission was not lawful, the power and right, "without reference to the regularity or legality of the proceedings of said board or of the order thereof," to proceed "to make such order as the said board should have made." Here is a "court review" with a vengeance! North Carolina allows appeals to be carried to its supreme court. So do North Dakota and South Dakota. Texas also grants to either party dissatisfied with the commission's order the benefit of judicial review practically unrestricted. Virginia, to expedite decision, has enacted that all appeals from the commission "shall lie to the supreme court of appeals only." Washington permits any railroad or express company "affected" by an order of the railroad commission to test its lawfulness in the superior court. In the Wisconsin law it is set forth that dissatisfied parties may begin an action in the circuit court of the State to vacate the order of the commission, which is made the defendant, and the court may pass upon the lawfulness or reasonableness of the commission's requirement.

It will be seen from this outline, and more particularly from the document above referred to, known as Senate Document No. 247, of the present session, that the legislatures of these States have deemed it necessary to incorporate in their statutes specific provisions for review, or to provide for defense against the enforcement of orders which are deemed by the carriers to be unjust or unreasonable.

Now, Mr. President, if such provisions are necessary in the legislation of States possessing complete original sovereign power over the subject, hampered by no limitations except such as are contained in their own constitutions and imposed by the fourteenth amendment of the Constitution of the United States, *a fortiori*, they are necessary in an act of Congress which rests upon the delegated power of commercial regulation.

I can not but think there is some difference in the plenitude of the respective powers of the State and nation arising not only out of the source of the power but out of the difference of the relations of the two sovereignties to the subject upon which the power operates.

The right of a railroad to establish public highways and to take tolls for the transportation of persons and property is a right derived from the States who delegate to private enterprise a public function. The right of a State to exercise free control over the operations of a railroad and the charges for its service grows out of its dominion over an institution it has created to perform a function of the State.

The right of Congress is found in the constitutional power to regulate commerce among the States, which the great Chief Justice said:

> Is the right to prescribe the rule by which commerce shall be governed.

The purpose of these observations is not to throw doubt upon the power of Congress to confer upon the Commission the powers proposed in this bill—of this I have no doubt—but to confirm the view that in dealing with the subject greater caution should be observed in guarding the rights of those upon whom its provisions are intended to operate, because of the difference in the radical relations of the States and the nation to the subject and to emphasize the suggestion that it would be unwise to omit in national legislation that which seemed necessary in State legislation.

It could be contended, if it were admitted that Congress could not establish a schedule of rates, that Congress could lawfully enact the main proposition of this bill. I do not believe that an act to regulate rates, to secure their reasonableness and uniformity, necessarily depends upon Congressional power to establish rates; it could safely rest upon the power to prescribe a rule to govern rates when established. Congress's power to regulate the construction of a bridge across a navigable stream does not depend upon its power to build the bridge.

Is there not a difference between establishing rates and establishing a rule that they shall be reasonable and nondiscriminatory? The power to regulate commerce includes the power to remove restrictions upon commerce; and unreasonable, extortionate, and discriminating rates and practices amount to a restriction, an obstacle, an obstruction.

The decision in the Northern Securities case is precisely put upon the ground that Congress has power to prescribe the rule of freedom of competition and that the incidental interference with corporations created by a State in the enforcement of the rule does not suggest an attempt to assume control over them for any other purpose. The court said in that case:

> The means employed in respect of the combinations forbidden by the antitrust act, and which Congress deemed germane to the end to be accomplished, was to prescribe as *a rule* for interstate and international commerce (not for domestic commerce) that it should not be vexed by combinations, conspiracies, or monopolies which restrain commerce by destroying or restricting competition, etc.

Similar provisions for a judicial review, or for judicial investigation of complaints, are also to be found in nearly all of the bills upon the subject of rate regulation that have been introduced during the present session of Congress, to wit:

H. R. 296, introduced by Mr. RICHARDSON of Alabama, December 4, 1905, provides (sec. 4) for a review by the circuit court.

H. R. 469, introduced by Mr. HEARST December 4, 1905, provides (secs. 9 and 10) for a court of interstate commerce, which shall have exclusive jurisdiction to review all orders of the Interstate Commerce Commission, and that any party aggrieved may file a petition for review, such review to include the justness, reasonableness, and lawfulness of the order.

H. R. 4425, introduced by Mr. TOWNSEND December 6, 1905, provides (sec. 7) for review by the circuit court.

H. R. 8414, introduced by Mr. SULZER December 15, 1905, provides for judicial review (p. 2, lines 20 to 25).

H. R. 8999, introduced by Mr. OLCOTT December 18, 1905, provides for a judicial review (p. 3, lines 3 to 10).

H. R. 10098, introduced by Mr. HOGG January 4, 1906, provides

for a court of transportation, which shall inquire into and determine complaints presented by a commission termed the transportation commission (p. 8).

H. R. 10099, introduced by Mr. HEPBURN January 4, 1906, provides, on page 15, for the determination by the circuit court of the *lawfulness* of an order, upon complaint for its enforcement, and on page 16 distinctly recognizes and refers to an assumed right of the carrier "to *enjoin, set aside, annul, or suspend* any order or requirement of the Commission."

H. R. 12220, introduced by Mr. MCCALL January 17, 1906, provides (p. 1, lines 11 to 13) for a judicial investigation of complaints made to the Commission and for an appeal in all cases to the Supreme Court (p. 3, lines 2 to 4).

H. R. 12312, introduced by Mr. DAVEY January 18, 1906, provides for a review in the circuit court by any carrier or other party aggrieved (p. 11, lines 19 to 23).

S. 285, introduced by Mr. FORAKER December 6, 1905, provides (p. 3) for a judicial review in the circuit court upon an action for enforcement of an order, and for the right of appeal therefrom to the Supreme Court (p. 4, lines 10 and 11).

S. 2261, introduced by Mr. DOLLIVER December 19, 1905, provides for the judicial determination of the *lawfulness* of an order, upon an action for its enforcement (p. 15, lines 10–15).

S. 2663, introduced by Mr. CULBERSON January 8, 1906, provides for judicial review where rate prescribed by Commission is confiscatory (p. 2, lines 5 to 10).

S. 4232, introduced by Mr. ELKINS February 13, 1906, provides for judicial review by the circuit court, section 3.

S. 4649, which I introduced February 22, 1906, provides for review, section 5.

Of the remainder, practically all contemplate and refer to, although they do not expressly provide for, a judicial review.

H. R. 278, introduced by Mr. CANDLER December 4, 1905, contemplates and refers to a judicial review (sec. 7).

H. R. 184, introduced by Mr. RUSSELL December 4, 1905, contemplates and refers to a judicial review (sec. 7).

H. R. 5966, introduced by Mr. ADAMSON December 11, 1905, clearly contemplates and refers to a judicial review, but does not expressly provide for one (secs. 4 and 9).

H. R. 11488, introduced by Mr. HEPBURN January 11, 1906, contemplates and refers to, but does not provide for, a judicial review (p. 10, lines 1 to 3, and p. 16, lines 5 to 7).

H. R. 12987, introduced by Mr. HEPBURN February 8, 1906, contemplates and refers to, but does not provide for, a judicial review (p. 14, lines 22 to 25, and p. 17, lines 10 to 13).

I am aware of but one bill (S. 1378, introduced by the Senator from South Carolina [Mr. TILLMAN]) which grants the Commission the power to fix rates, and which fails to provide *expressly* either for a judicial review or investigation, or to *recognize* a power assumed to exist in the Federal courts to review the orders of the Commission; and in that one instance it was stated at the time the bill was introduced that the reason it was not included was because the right of review already existed. What the Senator said was, I quote from the RECORD, page 243:

Mr. GALLINGER. I want to ask the Senator if I correctly understand his proposition as embraced in the bill to mean that the Interstate Commerce Commission shall be given the power to fix rates and that there shall be no appeal to the courts permitted—that it shall be absolute?

Mr. TILLMAN. Oh, no; the Supreme Court has declared—and the Senator is familiar with the decision—that under the Constitution *Congress has no such power,* and *it is not worth while for us to say in a bill that we are going to give that power,* because *the court* would pay no attention to it and *would declare such a bill unconstitutional.*

If this is correct; if there exists a practical unanimity in the desires and views of those who have given sufficient thought and study to this matter to be willing to express their views in the form of a bill; if all these Senators and Representatives believe either that a provision for review is essential or desirable, or take the ground that that right already exists in the courts, or that it should be included in the bill, what can possibly be the objection to definitely stating that right in the bill?

One thing I want to settle absolutely and to make clear beyond the possibility of a doubt: There exists in the minds of a large number of people throughout the United States the idea that the pending bill opposes a judicial review, and that those who are attempting to amend the bill by the insertion of a provision for review are endeavoring to force something into the bill that is foreign to its purposes. Such a view is erroneous. I do not mean that the bill effectually provides for a review, but that it makes distinct reference to such review, and assumes that such right exists.

That the bill provides, page 11, lines 5 to 9, as follows:

Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission *or be suspended or set aside by a court of competent jurisdiction.*

And on page 14, lines 20 to 25:

And the orders of the Commission shall take effect at the end of thirty days after notice thereof to the carriers directed to obey the same, unless such orders shall have been suspended or modified by the Commission *or suspended or set aside by the order or decree of a court of competent jurisdiction.*

And on page 17, lines 10 to 14:

The venue of suits brought in any of the circuit courts of the United States *to enjoin, set aside, annul, or suspend any order or requirement of the Commission* shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office.

Now if these expressions "suspended or set aside by a court of competent jurisdiction;" "suspended or set aside by the order or decree of a court of competent jurisdiction," and "the venue of suits brought in any circuit court of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission" do not refer to and contemplate a review, what do they mean?

One of two things is certain, either the bill does or it does not provide for a review. If it does not provide for review, and if those in favor of the bill as it now stands do not contemplate or desire a review, then, in all fairness, these provisions should be stricken from the bill.

The fact is, however, as I have already shown, that the friends of the bill as it now stands claim, not that it does not contemplate a review, but that the bill either sufficiently provides for a review, or recognizes a right claimed to exist independently of the bill. On the other hand, while not differing from them in the object sought to be accomplished, I claim that the bill does not effectively provide for a review, and that it is essential in view of its other provisions that such a right should be distinctly given in the bill. But for the seriousness of the situation the matter would be most ludicrous. Both sides agree that the right should exist; one holds that it is in the bill or exists independently; the other that it is not in the bill, but should be; and yet the former, for some mysterious and unaccountable reason, objects to an amendment which would place the matter beyond doubt.

When we consider that the people are asking for prompt, decisive, and effective action; that the present bill distinctly contemplates a review; that its constitutionality is seriously threatened by failure to provide for such review if the other features are to stand; that precedents of State legislation are in favor of a review; that all the bills presented in either House provide for or recognize a review; that this bill itself as presented in both Houses, and as originally prepared by the Interstate Commerce Commission, contained a provision for review, and that the President in his message speaks of the orders being subject to review—when we consider all these facts, the action of those who are willing to imperil the validity and effectiveness of this law by not explicitly providing for a review for no valid reason whatever is to me incomprehensible.

It is not my purpose, Mr. President, to discuss at length the proposition involved in the amendment proposed by the junior Senator from Texas [Mr. BAILEY], which raises the question of the power of Congress to prevent the circuit courts of the United States from exercising what I deem to be an inherent function of a court of equity, namely, the power to grant an injunction, preliminary or final, to suspend an order of the Interstate Commerce Commission in a case where it is alleged and established to the satisfaction of the court that the order takes the property of a carrier or person without allowing just compensation for its use. An extended discussion of this question after the able argument of the Senator from Wisconsin [Mr. SPOONER] would be superfluous.

I am constrained, however, to say that, in arriving at a correct solution of this question, it is necessary to have constantly in mind the distinction between the judicial power of the United States and the jurisdiction of the Federal courts, as prescribed by the Constitution and laws of the United States.

The Constitution prescribes that the *judicial power* of the United States *shall be vested* in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish (Art. III, sec. 1); and in the next paragraph—

The *judicial power* of the United States *shall extend* to all cases *in law and equity* arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls.

It will be observed that in the first case the Constitution says *where* this power shall be *vested* and in the next *to what cases* it shall *extend*, but it in no way attempts to define the power further than to indicate the three well-known branches through which it operates—law, equity, and admiralty. These three divisions or features of judicial power were not created by the Constitution, but were well understood and existed long before the Constitution was thought of. Thus the framers of that

instrument merely adopted the system of jurisprudence then in existence and in use among English-speaking people, and prescribed that the judicial system of the new nation should be founded upon the same principles of administrative justice.

It is also necessary to bear in mind the fact that the judicial power is one of the three coordinate powers of the Government of the United States, equal and in no material respect subordinate to either of the others. Indeed, in some respects it may be said to be the superior of the others, for it may pass upon the validity of their acts. Congress did not create this power. It exists wholly independently of that body; but while this is true, Congress has an office to perform in connection with it. This office is to create and establish the inferior Federal courts and to distribute or apply the judicial power to them. And right here is the vital part of the controversy. By the creation of these inferior courts Congress does not also create the power with which they are to be clothed. Congress merely *applies* the power already created by the Constitution. If it were otherwise, and Congress not only created the courts but the judicial power as well, then it would undoubtedly be true that Congress could likewise deprive the courts of this power by taking away one or more of their essential and inherent subordinate powers, such as the right to issue the writ of injunction. But that is not the case. The judicial power exists inherently by virtue of the Constitution, which instrument likewise created Congress and prescribed that it should establish the courts through which the judicial power should operate.

The office of Congress is therefore to *distribute* and not to *create* these powers. This power of distribution is a step lower down in the scale than the power to create. The first is the creation of the judicial power itself. That was accomplished by the Constitution. The next step was the distribution of these powers to the Supreme Court and to the dead machinery of the lower courts. And the third and next lower step is the mapping out of the jurisdiction of the court—that is, the prescribing of the particular objects or cases upon which this judicial power shall operate, which latter in very large measure was also outlined in the Constitution.

The judicial power, therefore, and the forms through which it operates, is a very different matter from a creation of the courts through which the power shall operate and the prescribing of the particular cases upon which it shall operate.

It is not necessary to consider the history of the origin and development of the chancery as a court distinct from the common-law courts. It is sufficient to state that the whole framework and structure of equity jurisprudence was built up and made possible because of this inherent equity power, the power of injunction, and now it is suggested to limit and control this power.

If Congress can interfere and lop off this highly essential branch of equity jurisprudence, it is easy to see that it can destroy the whole system or at least its efficacy. Such an attempt upon the part of Congress would clearly be an encroachment upon another and a coordinate branch of the Government, and it is a matter of highest satisfaction to know that in the system of nicely adjusted checks and balances which safeguard this Government the judicial power is not helpless, but may assert its own proper position and functions by declaring such an encroachment unconstitutional. That the Supreme Court would do so can hardly be doubted.

In volume 16, Cyclopedia of Law and Procedure, page 30, occurs the following:

> When, however, equity jurisdiction is confered over a particular subject, such jurisdiction includes with respect to that subject *all the powers of courts* of chancery.

"*All of the powers of courts of chancery*," not some of them. All of them. The power of injunction is the most vital of them all. How can a court of equity exercise *all* of its powers if its most vital power is taken away?

And again in Beach on Modern Equity Jurisprudence, section 5:

> The jurisdiction in equity has in many instances been modified in one way or another by modern statutes; but these statutes have ordinarily dealt with matters of practice or with matters which are not elementary; *and the changes have not affected the fundamental principles of equity.* Legislation affecting such changes is subject to various constitutional limitations. The most important of these is the provision preserving the right to trial by jury, which can not be abridged by the extension of equity jurisdiction. And, on the other hand, it is said that *the right to have equity controversies dealt with by equitable methods is as sacred as the right of trial by jury.*

And in Bispham's Equity, sixth edition, page 2:

> In the Federal courts the limits of equitable jurisdiction are to be ascertained by reference to the boundaries within which the powers of the English court of chancery were exercised.

The power of injunction, as we have seen, is the very power to which the English court of chancery is indebted for its existence. Measured by this standard, how can Congress claim the power to take it away?

One of the best statements of the law upon this subject is to be found in Bates on Federal Equity Procedure:

> SEC. 525. These constitutional and statutory provisions have had the effect to vest in the several courts of the United States, in cases over which they have jurisdiction, respectively, *full and complete equity power and jurisdiction,* as that jurisdiction was known, defined, distinguished, and administered in England at the time of the adoption of the Federal Constitution, embracing, among other powers, the power to grant injunctions, etc.
>
> SEC. 526. *Full and complete chancery jurisdiction* is conferred on the courts of the United States, in the classes of cases of which they have cognizance, with the limitation that suits in equity shall not be sustained by them where plain, adequate, and complete remedy may be had at law. The rules of the High Court of Chancery of England have been adopted by the courts of the United States. *And there is no other limitation to the exercise of a* chancery jurisdiction by these courts in the classes of cases committed to them by the Constitution and laws of the United States. * * * *The usages of the High Court of Chancery in England,* whenever the jurisdiction is exercised, *govern the proceedings.* The remedies in equity in the courts of the United States are the same, and are to be granted and administered according to the principles, usages, and remedies in equity in England at the time our Government was established; *and where, under the English chancery system, relief by injunction can be given, the same or similar relief may be given by the courts of the United States.*

In the Monongahela Navigation Co. *v.* United States, 148 U. S., 325, the Supreme Court quoted with approval the following language taken from the case of Isom *v.* Mississippi Central Railroad, 36 Miss., 315:

> *The right of the legislature* of the State, by law, to apply the property of the citizen to the public use, and then to constitute itself the judge in its own case, to determine what is the "just compensation" it ought to pay therefor, or how much benefit it has conferred upon the citizen by thus taking his property without his consent, or to extinguish any part of such "compensation" by prospective conjectural advantage, *or in any manner to interfere with the just powers and province of courts* and juries in administering right and justice, *can not for a moment be admitted or tolerated under our Constitution.* If anything can be clear and undeniable, upon principles of natural justice or constitutional law, it seems that this must be so.

Mr. President, a correct solution of the question mooted is to be arrived at only by keeping in mind the fundamental difference between the *jurisdiction* of a court and the *judicial power* which operates and extends over the matters of which it has jurisdiction, which power is itself the life of the court. The creator and life giver of the whole judicial system is the Constitution, and not Congress.

Congress maps out the jurisdiction of the court by stating upon and to what particular objects this judicial power shall extend and operate, but here its office ends. All of the decisions cited to support the proposition that Congress may take from a court of equity the power to do equity extend no further than to the *jurisdiction* of the courts. Of this Congress undoubtedly has complete control, subject to the limitations imposed by the Constitution. What, then, does jurisdiction mean? Nothing more than the right to speak. Congress can clearly say *when* the judicial power operating through the circuit courts shall speak, but not *how* it shall speak.

Congress may say through what tribunals the judicial power shall operate, but it can neither limit nor eliminate an essential function of that power when vested. That would be an encroachment by the legislative upon the judicial branch of the Government, an encroachment full of danger to the stability of the Government.

In the case of Brown *v.* Kalamazoo Circuit Judge (75 Mich., 283, 284) the court said:

> It is within the power of a legislature to change the formalities of legal procedure, but it is not competent to make such changes as to impair the enforcement of rights.
>
> The functions of judges in equity cases in dealing with them is as well settled a part of the judicial power and as necessary to its administration as the functions of juries in common-law cases. Our constitutions are framed to protect all rights. When they vest judicial power, they do so in accordance with all of its essentials, and when they vest it in any court they vest it as efficient for the protection of rights, and not subject to be distorted or made inadequate. The right to have equity controversies dealt with by equitable methods is as sacred as the right of trial by jury.

I consider the question raised by the junior Senator from Texas an important one, for the reason that in it, in my judgment, centers the main point of debatable difference in regard to the pending bill. I can not but think that it will be very generally conceded that the bill must be amended so as to provide explicitly for some form of judicial review. The question this leaves for serious discussion is as to whether the amendment shall be so framed as to deny to the courts the power to suspend an order of the Commission pending its review. With regard to that proposition I can only say that it is not a question of what the Senate may *desire* to do, but of what it lawfully *can* do; and I believe it has been shown that such a provision is impracticable because it is unconstitutional.

A provision for notice and hearing before granting an injunction can easily be provided without the risk of infringing upon chancery powers or constitutional rights by requiring the application for an injunction to be made in a suit against the Commission to be begun before the day fixed for the order to go

into effect. This would be before there had been any actual taking of the carrier's property, and therefore a provision for ample notice and hearing would not be subject to the objection that irreparable injury might ensue pending the hearing, as no injury could be sustained until the order became effective.

Mr. President, men of our inheritances repel summary and arbitrary methods, and none the less if these proceed from acknowledged power, accompanied by the mere empty professions and forms of law. Judicial review of every substantial controversy affecting persons and property is a right. This right was painfully won from tyrannies of the past, and is established now beyond the power of any present tyrannies to destroy, in whatever guise they may come, and even if masquerading in the name of the people. This right is to have the rights of the parties in every controversy determined by the courts. Why, then, should there be any doubt on that point in this bill; why should the relative provisions not be clear and explicit? Is it because the friends of this bill doubt the character or capacity of the courts? I have heard that doubt suggested in and out of this Chamber, and I now take leave to raise my voice in protest against the shallow and dangerous notion. Is the relation of the courts to government by the people forgotten? The courts are an integral and vital part of our Government, and it would be a sad day for American civilization if their function were degraded or weakened. They are the balance wheel and check in our system between contending passions and policies. This is not idle rhetoric.

It is the sober truth that the courts are the guardians of our rights and liberties. It is high time that the people should remember this and should soberly reflect upon the current heresies. It is high time that public sentiment and conviction should loyally support the judicial power, recognize the patriotism and good faith of the courts, and maintain their authority and independence. If the derogatory ideas which I have heard relate to State courts, I can not challenge those who are better informed than I as to particular States, but, speaking for my own State, I indignantly repudiate that idea, and as to the Federal tribunals, I assert without fear of contradiction that to their honor, capacity, and just judgments any human controversy may be safely intrusted. If now and then some unworthy judge constitutes an exception that contrast only accentuates the general record of high personnel, character, and ability.

Mr. President, this great subject should be discussed and considered in a spirit of sincerity and courage, far removed from political expediency, or levity, or passion. It is a question affecting the entire country and every section. It concerns vitally great aggregates of the people and each individual citizen. It touches at all points the interests of capital and the interests of labor. It is a question of constitutionality, of fundamental rights, of law. It is therefore a question which peculiarly concerns the lawyers of this Chamber. It would be a reproach to all of us if we should fail in our patriotic duty to give to the study of this question the best that is in us—to bring to bear in candor and honesty all our powers of mind and conscience. But it would be a peculiar reproach to those of us who are lawyers if for lack of intellectual integrity, for want of courage, because of expediency—for any reason short of absolute conviction—we should urge this bill, or, sitting silent, should supinely permit it to become law although believing it to be unconstitutional or illegal and unjust on any ground.

Mr. President, the sense of this responsibility weighs upon me, and has guided me in all that I have thought or said or done in this matter. I trust I do not need here or anywhere to give assurances as to the spirit and motives actuating my public conduct. But it is fitting for me to say in closing my remarks that my course on this important subject of debate before the people of the United States reflects the deliberate judgment of my mind on the legal questions and the deep conviction of my conscience as to my patriotic duty.

Mr. NEWLANDS. Mr. President, may I ask the attention of the Senator from Pennsylvania for a moment? Regarding the power which the Senator seeks to insert in the bill for court review, I wish to ask him whether if Congress to-day should pass a statute absolutely fixing the rates for interstate commerce through the entire country he thinks it would invalidate that statute on constitutional grounds if it failed to make provision for court review?

Mr. KNOX. Mr. President, it is not necessary for me to take that position under this bill. My contention is not that the bill is unconstitutional because it fails to make provision for court review, but that it is unconstitutional for that reason in conjunction with the provision prohibiting defense in proceedings to enforce the orders of the Commission, and likewise imposing heavy penalties which are intended to keep the carrier from challenging the order of the Commission.

If the Senator from Nevada will kindly excuse me from answering other questions—I am very much fatigued; I expect to be in the debate to the end, and he will have another opportunity.

Mr. NEWLANDS. I should like to press the inquiry further, but I shall avail myself of another opportunity.

THE FIVE CIVILIZED TRIBES.

Mr. CLAPP. Mr. President, I desire now to call up the conference report on House bill 5976.

There being no objection, the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

The VICE-PRESIDENT. The conference report has been printed as a document and is on the desks of Senators. It has also been printed in the RECORD by order of the Senate. The question is on agreeing to the conference report.

Mr. LA FOLLETTE. Mr. President, I am not quite familiar with the proceeding, but I desire to have an opportunity to discuss the conference report. To that end I move—and yet I may not be taking the right course—that the Senate disagree to the conference report.

Mr. LODGE. I do not wish to interfere at all with the Senator from Wisconsin, but if he desires the conference report to go over so as to have an opportunity to look further at it——

Mr. LA FOLLETTE. Oh, no; I have looked at the report; I merely desire to get it in such form that it can be discussed here.

Mr. CLAPP. That can be done now.

Mr. LODGE. Of course the first motion is to agree to the conference report.

Mr. CLAPP. The question is on the adoption of the conference report.

The VICE-PRESIDENT. The question before the Senate is on agreeing to the report. The report is open for discussion. The junior Senator from Wisconsin is recognized.

Mr. LA FOLLETTE. I yield to the Senator from Colorado [Mr. PATTERSON].

Mr. PATTERSON. Mr. President, against one of the amendments, I think it is the eleventh, I desire to raise a point of order.

The VICE-PRESIDENT. The Senator from Colorado will state his point of order.

Mr. PATTERSON. I may not be able to state it in a few words, but I will try to make myself clearly understood by the Senate.

I would not interpose the point of order did I not feel that the amendment is a very vital one and is liable to do a great amount of injustice to several thousand citizens by blood of the Five Civilized Tribes and its effect must be, in my judgment, to deprive many of them of large property interests that they would otherwise acquire.

The point I make against the eleventh amendment is that it strikes out a provision of the bill that was acted upon favorably by both the Senate and the House of Representatives, and that the conference committee was not appointed for the purpose of revising the act or the acts of both branches of Congress, but was appointed for the purpose of settling, if they could, differences that arose by reason of amendments.

Turning to the report of the conference committee as printed on page 3, I understand this to be the situation of the eleventh amendment: The eleventh amendment made by the Senate consisted of striking out the word "six" and changing it to "seven," so that the proviso reads:

Provided, That the rolls of the tribes affected by this act shall be fully completed on or before the 4th day of June—

Which was changed to March—

1906—

Which was changed to 1907. That was the entire eleventh amendment—the changing of the word "six" to "seven." But not content with agreeing to that amendment the conference committee proceeded to strike out an entire provisio that had no relation to the date that was changed in the Senate and to substitute for that proviso a provision of its own.

The proviso to which I refer is the proviso commencing on line 14, page 3, of the bill. That proviso was a part of the bill as it came to the Senate from the other House, and it remained a part of the bill as it left the Senate. It was not altered to the extent of the crossing of a "t" or the dotting of an "i;" but when the conference committee got together they struck out the deliberate action of the Senate, which was not in dispute at all between the two bodies, and they substituted for that a provision of their own.

Mr. TILLMAN. From what page is the Senator reading?

Mr. PATTERSON. I am reading from page 3. The amendment to which I refer commences on line 12, page 3, and the proviso that it strikes out commences on line 14, on page 3. I call the attention of the Vice-President again to the proposition that this proviso was in the bill as it passed the other House; it was in the bill as it passed the Senate without any change whatever, and this united action of both bodies has been obliterated from the bill and a new proviso substituted for it. To me it seems quite unusual, quite extraordinary, and must be subject to the point of order.

This is the proviso as it left the House and was approved of by the Senate:

Provided further, That nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application has been fixed by agreement between said tribe and the United States: *Provided further*, That nothing herein shall apply to the intermarried whites in the Cherokee Nation whose cases are now pending in the Supreme Court of the United States.

The conference committee struck that out bodily and substituted for it the following:

Provided, however, That the decision of the Commissioner to the Five Civilized Tribes on a question of fact shall be final.

In the first place, Mr. President, there is nothing cognate between the two provisions. The amendment of the conference committee is to change a rule of evidence; and under the operation of that change the cases of several thousand freedmen and citizens must be most materially affected. I understand, from what I consider very fair and reliable authority, that there are pending in the Indian Territory several thousand cases, in which the parties, by virtue of their relation to the tribes, are seeking to secure lands, moneys, and other property that will come to them by virtue of the status that they may establish in the proceeding before the Commissioner or the Commission, mostly upon the part of those who were freedmen, who are only entitled to 40 acres of land and some proportion of tribal property of another character, who have undertaken to establish their rights in the land as citizens of the tribe; citizens by reason of the fact that they are children or grandchildren of Indians, whether through the father or through the mother.

I submit, Mr. President, that the injustice of a provision of that kind is manifest on its face. The Commissioner, who is made the final tribunal upon all questions of fact, and whose decisions are to be final, is not even a lawyer. He has under him 100 or more clerks, who, in reality, sit as a court, make their findings, submit them to him, and he, as the Commissioner, finally adjudicates the matter. The presumption is that all hearings are before him; that all the witnesses appear before him, as they would before a judge of a court; but the practice is to the contrary, and the practice necessarily prohibits him, on account of the number of litigants, from giving his personal attention to each case. I am informed that so inaccurate, if I may use that term, have been the decisions of the Commissioner in almost innumerable cases that, upon appeal from the Commissioner to the Secretary of the Interior, at least 50 per cent of the decisions of the Commissioner have been reversed, and that is not at all to be wondered at. Not being a lawyer, not being educated in the weight of testimony and giving the proper weight to each witness and to each item of evidence, he commits many blunders.

Now, it is proposed to arbitrarily amend the rule in such manner that the decision of this Commissioner upon questions of fact in future will be held absolutely final. It is because of this manifest injustice that will be done to those who are entitled to have justice done under the law, regulated according to the usual custom in court, that I make the point of order that I do—that the conference committee have struck out an entire proviso, a proviso that was consented to by the other House and the Senate, not a word of it changed while the bill was before either body, and have substituted for it an entire new proviso and one that is altogether different in its aim and in its results from the one that was struck out.

I think, Mr. President, that the point of order must be well taken, in view of what is the scope of the duties of a conference committee.

Mr. CLARK of Wyoming obtained the floor.

Mr. CLAPP. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Minnesota?

Mr. CLARK of Wyoming. I do.

Mr. CLAPP. Mr. President, I do not care in this connection to discuss particularly the merits of the change in the bill proposed by the conference committee any more than to say that this Commissioner has opportunities certainly equal to those of the Secretary of the Interior for giving personal attention to these cases. One of the unfortunate conditions in the Indian Territory is the long delay incident to the attempt to settle the affairs of that Territory; and one of the most striking occasions of that delay is the appeal, not only upon questions of law, but upon questions of fact. It was my fortune last fall to visit the Indian Territory, and from every source those complaints came up. It now seems to me, as it did then, that in questions of fact it is better that the decision of the man who is on the ground, possessing more opportunity for investigation than the man sitting in his office in Washington, shall be final as to questions of fact, leaving questions of law to be sent to the Department of the Interior, and by the head of that Department referred to its legal branch.

The fact that the cases to which the Senator from Colorado [Mr. PATTERSON] refers have been reversed, to my mind affords no argument against this proposed change. In that country there is a condition existing where the controversy is between Indians and the white people and those who have obtained tribal relations either by marriage or adoption by the tribe itself. An examination of these appeals will show that where that Commissioner has been most often reversed, his decision was in favor of the Indians and the reversal against the Indians. But I do not care to pursue that question further.

The reason the conference committee struck out from line 14 to line 21 is that that was involved in the settlement of the question whether these rolls should be completed in June, 1906, or in March, 1907. I call the attention of the Senator from Colorado to the fact that the House never did assent to the language from line 13 to line 21 in connection with a change of those dates. The House bill provided that these rolls should be completed on the 4th day of June, 1906, and, in view of that fact, it was necessary to provide that it should not relate to the intermarried whites whose cases are pending in the courts. But when the House assented to changing that date to March, 1907, giving us the next session of Congress in which to make provision, according as the decision in the intermarried whites case might go one way or the other, it then was mere surplusage to leave that language in the bill.

Section 2 provides for completing this enrollment. It first provides for the taking in of minors who have been born since March 4, 1906, up to that time they being included under the allotment of last year. Then it provides for equalizing the allotments, prohibiting any action after six months from the date of the original selection, or after the expiration of six months from the passage of this act as to allotments heretofore made. Then it changes the date, the whole purview of that condition being in relation to the question of these allotments; and then the House submitted, as the record will show, this addition:

Provided, however, That the decision of the Commissioner to the Five Civilized Tribes on a question of fact shall be final.

Mr. HALE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Maine?

Mr. CLAPP. Certainly; with pleasure.

Mr. HALE. While I have no great familiarity with the subject-matter of this bill, the conference report brings out what is a constantly recurring question in the Senate, whether the conferees have inserted matter neither put in by the House of Representatives nor by the Senate—that is, new matter. It is an old question, as the Senator knows, older than his service here—and valuable service it is—older than my service, and we need always here to scrutinize conference reports. That is done without any reflection upon Senators, but it is to preserve the integrity of legislation. Nothing is so dangerous as the assumption of undue power on the part of a conference committee, no matter how strong the temptation may be to perfect a bill; nothing is so pernicious in legislation as for the conferees to assume, in perfecting a bill, to put in what has not been put in by either House.

I know in the Committee on Appropriations, which deals with almost every subject of legislation, and which has a tremendous power by reason of the important matters that are intrusted to it in conference, some of us old members have to constantly make a contest in conference committees against putting on new matter, regardless of how good the new matter may be, and regardless of how desirable it may be in perfecting the bill.

It is not the province of a conference committee to legislate. The province of a conference committee is to adjust differences, differences between the two Houses, differences that have already arisen, and that appear to need adjustment; but it is not the province of a conference committee to assume what either House should do and put in new matter.

Now, what I want of the Senator is——

Mr. GALLINGER. Or strike out matter not in controversy.

Mr. HALE. A conference committee can not strike out matter not in controversy.

Mr. CLAPP. Of course, I realize, as the Senator suggests, that there is nothing personal to the conferees in anything that may be said.

Mr. HALE. Not in the least.

Mr. CLAPP. Of course, I did feel an added interest in this case because it was put on by the House conferees. But take the language from line 15 to line 21, more especially the second proviso as to the intermarried whites. If a matter in conference between the two Houses changed the date so that that would not longer be pertinent to the view first taken by the House, would it not be proper to strike that out in adjusting these views? I am asking merely for information.

Mr. PATTERSON. I want to call the attention of the Senator from Maine [Mr. HALE] to what has been changed or for what the new matter has been substituted. This is the proviso, commencing on line 10:

Provided, That the rolls of the tribes affected by this act shall be fully completed on or before the 4th day of June—

"June" was stricken out and "March" inserted—

nineteen hundred and six.

"Nineteen hundred and six" was stricken out and made "1907." So the amendment up to that point simply changes the time for the completion of the roll.

Mr. HALE. That is, they deal simply with the question of when the thing shall be done and take effect. That is all.

Mr. PATTERSON. Yes. Then they proceed to change the rule of evidence, striking out an entire proviso that had no reference whatever to the rule of evidence and that had received the approval of both bodies of Congress, and substituting a new rule of evidence by which thousands of cases are to be governed.

Mr. HALE. That is precisely to what I was going to call the attention of the Senator from Minnesota [Mr. CLAPP], who is a good lawyer and who will see the force of it. The only thing that was brought into controversy by the amendments were the dates. "March" was substituted for "June," and "seven" for "six"—that is, the time when the provision should take effect. That is the only real question that was raised.

Mr. CLAPP. I submit, if the Senator will pardon me, that the second proviso was also involved in that change. That was the expression of the wish of the House if the time were limited to June, 1906. Of course it ceased to be their wish if it was extended to 1907.

Mr. HALE. I see the force of that. How far does that go? Does it follow that because of a change of date the conditions are changed, and that the conferees had a right to put in, instead of the proviso which was left in the bill by both Houses, absolutely a new rule, which is:

That the decision of the Commissioner to the Five Civilized Tribes on a question of fact shall be final?

I think, Mr. President, the conference committee has exceeded its power in putting that in, though I see the force of what the Senator says, that the whole subject-matter may have been changed by the change of date. I should like the Senator to explain that; otherwise I should be very clear that introducing this new rule of evidence in place of the proviso that had been left untouched by both Houses is clearly transcending the power of the conferees.

Mr. CLAPP. No; I do not mean that changing the date changed the whole of it. What I meant to say was that changing the date clearly warranted the committee, it seemed to me, in striking out the second proviso. However, that still leaves unimpaired the Senator's objection concerning the addition of the provision in regard to the Commissioner. That I concede, and probably in view of the Senator's opinion of it the objection would be practically decisive.

I should like to ask as a question of practice now—of course this report has to be adopted in whole or rejected in whole, as I understand——

Mr. HALE. I suggest to the Senator that when a conference encounters difficulties of this kind, which, I think, evidently are insuperable—and the Senator is very frank about his statement—the report is withdrawn or it can be voted down, and then the bill goes into conference again.

Mr. CLAPP. I think, in view of the suggestion of the Senator from Maine [Mr. HALE]—and certainly his opinion on a matter of this kind ought to be decisive; it would be to my mind anyway—I will take the report back. But there is another question involved.

Mr. TELLER. There are several other questions.

Mr. CLAPP. There are some other questions. My idea was whether in this manner the conferees on the part of the Senate could take the judgment of the Senate in advance upon these other questions, so that we would not have to come back again and perhaps again encounter them.

Mr. HALE. The other questions may be brought up.

Mr. CLAPP. I should like to have that done, so that in the next report——

Mr. HALE. We can have those all brought up, and then the conferees on the part of the Senate will be strengthened in their position.

Mr. CLAPP. I should like to have that done.

Mr. CLARK of Wyoming. Mr. President, there are several matters to which I was about to call attention when I yielded to the chairman of the committee [Mr. CLAPP]; but in view of the statement of the chairman that he would like these matters called to attention now, I will make mention of some of them.

I was about to express my reluctance, Mr. President, to in any way criticise a conference report coming from a committee of which I was a member. I simply want the Senator from Minnesota, as I was calling attention to these matters, to be advised as to my objections to the report. There are very many, and they are on various grounds.

First, because I do not believe the conference report reflects in any way the sentiment of the Senate upon the points in difference between the two Houses. That perhaps is not the subject of a point of order; but it is a matter to which I wish to call attention, especially in view of the very great importance of one of the amendments.

It has seemed to me, Mr. President, in looking over the report that the Senate conferees have not been insistent enough perhaps in expressing in the conference the views of the Senate, and I would call attention first, on that line, to the action of the conference committee with reference to the coal lands.

Mr. TELLER. Give us the number of the amendment.

Mr. CLARK of Wyoming. I am trying to find the amendment now.

Mr. CLAPP. It is 33, I think.

Mr. CLARK of Wyoming. Thirty-three.

Mr. GALLINGER. It is on page 4 of the conference report.

Mr. TELLER. And on page 16 of the bill.

Mr. CLARK of Wyoming. Page 16 of the bill.

Mr. CLAPP. On page 4 of the report, amendment No. 33.

Mr. CLARK of Wyoming. Yes, and it is on page 16 of the bill.

Mr. PATTERSON. What is the number of the amendment?

Mr. TELLER. Thirty-three.

Mr. CLARK of Wyoming. The numbers of the amendments are 33 and 34.

My recollection of that matter is this: The House provision as it came to us was not at all satisfactory to the Senate, as developed here by two or three days of discussion. This matter was so important that the Senate committee spent several days in devising some plan which they thought would be just and proper in dealing with these coal lands, variously estimated in value at from fifteen to fifty million dollars. It was finally determined in the Senate to reject the amendment prepared by the committee, which provided, under careful restrictions, for the disposal of the coal lands; to strike out the House provision for their further lease, and to leave matters exactly as they are at this time, pending further information to be received upon the subject of the coal lands. I think if there was anything in the bill that was carefully considered and carefully voted upon in the Senate it was that very provision.

Mr. President, the result of the conference is not only to undo what we have done in the Senate, but to do what I am sure the Senate never would have done—to concur in full in the House provision. The only change made in the House provision as it came to us, after all the discussion and vote in the Senate, is to insert in line 11 "or until such time as may be otherwise provided by law." The effect of this legislation, if the conference report shall prevail upon that matter, is simply this: It does not even leave this matter in the shape in which it now is, but it virtually instructs the Secretary of the Interior, prior to the time when we meet here again in Congress, to dispose of all that coal land.

Mr. CLAPP. Oh, Mr. President, I beg to call the Senator's attention to the fact that he is mistaken, unless he means to dispose of it by lease.

Mr. CLARK of Wyoming. I mean to dispose of it by lease.

Mr. CLAPP. Oh!

Mr. CLARK of Wyoming. It makes no difference whether it is disposed of by lease or is sold; it takes it out of the power of Congress ever to legislate, during the time those leases run, with respect to an acre of land, which the Secretary is given a direct invitation to lease as rapidly as possible and before Congress shall again meet in session.

As I said, if there was one thing which the Senate fully discussed in connection with this bill it was this very coal-land proposition, and the result has been not only to set at naught all the discussion, not only to set at naught the desire of the Senate to learn something about the coal lands, not only not to leave it in statu quo, but to go further than can be gone under the existing law and lease the lands. The present law provides against the leasing of any of these coal lands. The law that is proposed goes a step further than that and provides for the leasing of all the lands, and takes the control of them absolutely out of the power of Congress. That is one of the matters in this report to which I wish to call attention.

Mr. BACON. May I ask the Senator from Wyoming a question?

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Georgia?

Mr. CLARK of Wyoming. With pleasure.

Mr. BACON. Does the Senator refer to the word "leased" in the eighth line on the sixteenth page or is it some other section of the bill that he has in view?

Mr. CLARK of Wyoming. Section 13, page 16, of the bill.

Mr. BACON. Yes; that is the one I refer to.

Mr. ALLISON. The last print of the bill?

Mr. CLARK of Wyoming. The last print of the bill. The thirty-fourth amendment of the Senate struck out the provision for leasing. The present law is that there is no authority for leasing. I will say to the Senator from Georgia that under a distinct agreement with the Indians the Secretary of the Interior is prohibited from making any leases of these coal lands. The House, in its wisdom, saw fit to put in a provision for the leasing of these lands by the Secretary, notwithstanding the solemn agreement with the Indians not to lease them. The Senate, when it came to discuss this question, struck out the House provision for the leasing. The conference committee have restored it.

Mr. TELLER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Colorado?

Mr. CLARK of Wyoming. Certainly.

Mr. TELLER. I call the attention of the Senator to the fact that that would be within the province of the committee.

Mr. CLARK of Wyoming. As I stated to the Senator from Minnesota when he and the Senator from Colorado were engaged in conversation, I urged that not as a technical objection to the report, but for the information of the committee when they went back into conference.

Mr. ALLISON. Let me see if I understand this. Do I understand the Senator to contend that the conference report restores the phraseology from line 12 to line 19?

Mr. CLARK of Wyoming. Exactly.

Mr. ALLISON. The printed report does not so indicate.

Mr. TELLER. Yes; it does.

Mr. CLARK of Wyoming. I think it does.

Mr. ALLISON. It says:

That the House recede from its disagreement to the amendment of the Senate numbered 33.

Now, what was that amendment?

Mr. CLAPP. That is the language we put in:

Or until such time as may be otherwise provided by law.

That was Senate amendment No. 33.

Mr. ALLISON. What about 34?

Mr. CLAPP. Then the Senate receded from its amendment numbered 34.

Mr. ALLISON. I see.

Mr. CLAPP. The record shows it.

Mr. TELLER. The Senate receded, as the record will show.

Mr. ALLISON. I see now. The Senator is right.

Mr. CLARK of Wyoming. I will say to the Senator that the record is not entirely accurate as to the print of this bill. The accurate statement is this: The entire section 13 was stricken out by the Senate.

Mr. TELLER. No.

Mr. CLAPP. The Senator is mistaken.

Mr. CLARK of Wyoming. I will finish my statement, and if when I get through it appears that I am mistaken I will be subject to correction.

The entire section was stricken out. A new section was thereupon inserted, which began with the word "section," in line 8, and closed with the word "law," in line 12, I am satisfied of that, because I myself prepared the amendment and offered it on the floor, and it was adopted.

Mr. CLAPP. Was not the language from the word "section," in line 8, a repetition of the House provision?

Mr. CLARK of Wyoming. It was an exact repetition of the House provision, but the House provision was stricken out. But, however that may be, the point to which I call attention is the effect of the action of the conferees, as their report shows; and I wish to call the attention of the conferees to the fact that I do not think a just interpretation of the desires of the Senate——

Mr. McCUMBER. I should like to ask the Senator a question. Where is it shown that the Senate conferees have receded from Senate amendment numbered 34?

Mr. ALLISON. On the first page of the report.

Mr. TELLER. The first page.

Mr. CLARK of Wyoming. The Senator will find it on the first page.

Mr. McCUMBER. Where is it in the report?

Mr. ALLISON. On the first page of the report.

Mr. TILLMAN. The Senate recedes from its amendment numbered 34.

Mr. ALLISON. The Senate recedes from its amendment numbered 34.

Mr. McCUMBER. I see it.

Mr. HALE. It is in the general list.

Mr. McCUMBER. Yes.

Mr. CLARK of Wyoming. Yes. I think it would be very unfortunate, indeed——

Mr. BACON. On what page is the statement that the Senate recedes from its amendment numbered 34?

Mr. CLARK of Wyoming. Page 1 of the report.

Mr. TILLMAN. The Senate recedes, as is shown on page 1.

Mr. BACON. I see.

Mr. HALE. The Senator will find it in the general list.

Mr. BACON. I see.

Mr. CLARK of Wyoming. I think that is all I care to say upon that particular section, but I will call the attention of the committee——

Mr. ALLISON. Before the Senator leaves that section I should like to ask him whether, as the conferees have reported this provision, it allows the Secretary to go on in the meantime and lease any of these lands?

Mr. CLARK of Wyoming. It is a direct invitation to the Secretary to go on and lease the lands, because the law at present prohibits him from leasing any of the lands. This new legislation in the pending bill not only allows him, but is a direct invitation to him to go on and lease from this time on all of the lands that are not already under lease.

Mr. ALLISON. I understand.

Mr. TELLER. I wish to call the attention of the Senator on the floor to amendment 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows.

The only amendment of the Senate was to put it "or until such time as may be otherwise provided by law."

Mr. CLARK of Wyoming. Yes.

Mr. TELLER. That had reference to the sale?

Mr. CLARK of Wyoming. Yes.

Mr. TELLER. I do not remember what that matter was, but I think it was substantially as in this print.

Mr. CLARK of Wyoming. Exactly the same.

Mr. TELLER. Then the conferees add after that:

Provided, That the Secretary of the Interior be, and he is hereby, authorized to ascertain and report by the opening of the next session of Congress if he can secure an agreement with the Choctaw and Chickasaw Indian tribes to have said coal lands set aside for school purposes, or report a plan for the sale and disposition of said lands.

Then comes the leasing provision——

Mr. CLARK of Wyoming. Yes.

Mr. TELLER. And we recede from amendment numbered 34.

Mr. CLARK of Wyoming. Yes.

Mr. TELLER. I understand that the right to recede with an amendment or to agree with an amendment means an amendment that is substantially——

Mr. CLARK of Wyoming. Germane.

Mr. TELLER. Related to the subject-matter. Here is an entirely new thing, new legislation which has never been before either body.

Mr. HALE. Let me ask the Senator whether in debate or in the consideration in either House this feature of ascertaining and reporting by the opening of the session whether the Secretary could secure an agreement with the Choctaw and Chickasaw Indians to have their coal lands set aside for school purposes was up at all?

Mr. TELLER. No; I believe it was not up in the House, because it did not come to us in the bill, and it was not in the Senate, at least, in any shape or manner, nor in the committee.

Mr. HALE. So it is absolutely new matter?

Mr. TELLER. The committee never considered that matter.

Mr. DUBOIS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Idaho?

Mr. CLARK of Wyoming. Certainly.

Mr. DUBOIS. Did I understand the Senator from Maine to ask whether the subject-matter of the amendment had been brought before the Senate?

Mr. HALE. It was not by any action of the Senate. There has been no action at all by the Senate on this subject-matter that I can find; nor was there by the House, either.

Mr. DUBOIS. I am not quite clear in my mind as to whether there was any action of the Senate in regard to the setting aside of these coal lands for school purposes, but it certainly was brought up in the Senate and discussed by the Senator from Texas, I believe.

Mr. HALE. If it was brought up and not adopted, then it makes in favor of the argument that it ought not to be put in here. What I intended to say was that in neither House had this subject-matter been adopted or agreed to.

Mr. CLARK of Wyoming. No.

Mr. HALE. If it was discussed and not agreed to, then that makes the action of the conferees all the more objectionable in putting in new matter which was discussed and not adopted by either House.

Mr. DUBOIS. My recollection is that it was not put in the form of a motion. The Senate did not act.

Mr. CLARK of Wyoming. Probably I can refresh the memory of the Senator from Idaho. It was discussed, or some Senator upon the floor expressed the hope that that might be the outcome of legislation in regard to these lands.

Mr. TELLER. At a subsequent time.

Mr. CLARK of Wyoming. Yes; at a subsequent time.

Mr. DUBOIS. Of course the Senator from Wyoming will recall—and I also call the attention of the Senator from Maine to the fact—that it was stated very distinctly in regard to this and other matters that they were referred to the conference committee with instructions practically to report a new bill.

Mr. CLARK of Wyoming. I should dislike very much to have the Senator from Wyoming called as a witness to that proposition.

Mr. DUBOIS. I do not mean a new bill, but greater discretion was given by the Senate to the conferees than is usually given.

Mr. TELLER. I can relieve the situation, I think. After we had disposed of the thirteenth section and several other things, I called the attention of the Senate to the fact that there were a great many things in the bill that we had amended; and if we left them in that way, if we struck out our own committee amendment, we should, in order that the conferees might pass upon these questions, strike out of the House bill all matter touching that question, and then there would be a chance for the House to recede with an amendment. But of course it must be an amendment touching the very question—not a new amendment, but one that would explain or modify the text. We struck out pretty nearly all of the bill, with the statement that the conferees might have to make a new bill. But it could only be a new arrangement of the matters we had considered either in the Senate or the House and had put in the bill or had knocked out of the bill.

Mr. HALE. I remember very well, if the Senator will allow me, the expression of the Senator and the connection in which it was made, just as he puts it now—that in adjusting these different amendments and differences between the two Houses a new form of bill would be provided; but I had no thought that the veteran Senator from Colorado had in his mind then that the conference committee would be invested with any legislative power.

Mr. TELLER. Oh, no.

Mr. CLARK of Wyoming. My objection to the conference report with respect to this particular section was not that a new section had been inserted not germane to the section, which, of course, is true, but my objection went to the subject-matter of the agreement, and to it I wished to call the attention of the chairman of the committee and of the Senate.

If there was another matter more distinctly brought out in the discussion in the Senate than any other, I mean more distinctly after the one I have just referred to, it was the continuance of these tribal relations and tribal governments until the 4th of March, 1907. It was not only agreed in the Senate that the tribal governments should continue, but a joint resolution was passed through both Houses and signed by the President.

Mr. HALE. Offered by whom?

Mr. CLARK of Wyoming. I have forgotten who offered it. It was offered——

Mr. HALE. Did not the Senator himself offer it?

Mr. CLARK of Wyoming. No; the Senator from Rhode Island [Mr. ALDRICH] offered it.

Mr. HALE. Certainly he did.

Mr. CLARK of Wyoming. The tribal governments and the tribal relations were continued in force until the 4th of March, 1907. The conference committee have not in so many words in this report repealed that joint resolution, but they have in fact. And why and where? With respect to section 9, this appears on page 3 of the conference report:

And the House agree to the retention of the new matter added by the Senate, from line 4 to line 13, inclusive, on page 11.

Mr. HALE. Where is the Senator reading from? What page of the report?

Mr. CLARK of Wyoming. I am reading from page 3 of the report, referring to Senate amendment numbered 24.

Strike out the words "dissolution of the several tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, all records and files of said tribes" and insert in lieu thereof the following: *The 1st day of June, 1906, all records and files of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes.*

The effect of that is that nothwithstanding the tribal governments and tribal relations are continued for a year, on the 1st day of June, 1906, all the records and files of said tribes "shall, under the direction of the Secretary of the Interior, be removed and deposited with such Government officer or officers as he may designate, and the Secretary of the Interior is authorized to make such rules and regulations as he may deem necessary respecting the removal, deposit, preservation, and in respect of such records."

In other words, the effect of that is to leave upon paper as a legislative enactment the continuance of these tribal relations and governments, but to rob them of all the means and implements and tools for carrying on those governments.

Mr. HALE. Exactly.

Mr. CLARK of Wyoming. It is further emphasized on page 3:

And the House agree to the retention of the new matter added by the Senate, from line 4 to line 13, inclusive, on page 11; and as agreed to the amendment reads as follows:

"SEC. 9. That upon June 1, 1906, all records and files of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes shall, under direction of the Secretary of the Interior, be removed and deposited with such Government officer or officers as he may designate," etc.

As I say, that does not repeal, in so many words, the action of both Houses of Congress by joint resolution and the action of this body on this bill which continues these tribal relations and governments, but it does repeal it by depriving the tribes of the means of carrying on those governments, by taking away from them all their records and all their files and all their implements and machinery of tribal relations and government and having them deposited elsewhere.

Mr. President, there is another point to which I wish to call attention, and this I should have called attention to as being a question of order as to the report. I ask the consideration of the Senator from Minnesota to this point, as to whether or not——

Mr. CLAPP. What page of the bill?

Mr. CLARK of Wyoming. Page 3 of the conference report, where it is proposed to insert, after the word "funds," on page 13, line 15, of the bill, the words:

Provided, That hereafter clerks and deputy clerks of United States courts in the Indian Territory who are ex officio recorders of recording districts in said Territory shall be allowed, out of the fees received for the recording and filing of instruments, 25 per cent in addition to the sum for compensation and actual expenses for clerk hire now provided by law.

There may be some point in the bill to which this is germane, but if there be I have not found it. Certainly neither House of Congress in considering this bill touched upon that matter. There is no reference to it in the action of either branch of Congress. There is no reference whatever in considering this matter to the fees of clerks and deputy clerks of United States courts. Certainly——

Mr. CLAPP. What line of the bill is it?

Mr. CLARK of Wyoming. There may be somewhere in the bill, but I have not been able to find it—certainly it does not occur in section 10, which is the subject-matter of this amendment and conference agreement—a provision to which this is germane.

Mr. CLAPP. There is a provision here which provides for those records. It is barely possible that that amendment may have been inserted at the wrong place. I call the Senator's attention to section 8, which relates to the fees for transcribing records, for certified copies, etc. I am inclined to think the criticism is correct in that the amendment was made to the wrong section.

Mr. CLARK of Wyoming. Then does the Senator think that the amendment to section 22 was agreed to by the House without any amendment? The conference report shows——

Mr. CLAPP. Yes; but I think the provision placing the limit on the fees should have been attached to section 8.

Mr. CLARK of Wyoming. That is amendment numbered 22?

Mr. CLAPP. Yes.

Mr. CLARK of Wyoming. And the House agreed to the Senate amendment to section 22 without any amendment?

Mr. CLAPP. I know; I say it was probably an inadvertence that this was not dealt with there instead of being attached to section 10.

Mr. CLARK of Wyoming. Then I ask the Senator, if it was intended to go on section 10, why does he still believe that it is germane to section 8?

Mr. CLAPP. I would think so. I do not know.

Mr. CLARK of Wyoming. I am not interested especially in that, but may I ask the attention of the Senator from Minnesota to another amendment?

On page 5 of the report, section 19 removes all restriction upon alienations and leasing of lands of Indian allottees of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes other than full bloods, except as to homesteads. As I understand it, that allows the absolute sale of all the lands belonging to those mentioned, except the homesteads. The Senator will find it on page 5 of the report.

Mr. CLAPP. Yes; I have it.

Mr. CLARK of Wyoming. It provides for the sale of the lands, except the homesteads.

Mr. CLAPP. That is, of all but full bloods.

Mr. CLARK of Wyoming. Of all who are not full bloods?

Mr. CLAPP. Yes.

Mr. CLARK of Wyoming. First, it allows the sale, and then it prohibits the leasing.

Provided, That nothing in this act contained shall be construed or held to authorize the leasing of such lands for oil, gas, or other mineral without the approval of the Secretary of the Interior.

Do I understand that the sale of the land requires the assent of the Secretary of the Interior?

Mr. CLAPP. No.

Mr. CLARK of Wyoming. Then may I ask the Senator what was the purpose, if the Indian can give the greater title without the assent of the Secretary of the Interior, that the less title should be hampered? I am asking for information only.

Mr. CLAPP. I will answer the question.

The Department of the Interior has held, I think without warrant of law perhaps, that removing the restriction as to alienation does not carry with it the power to lease. That is the ruling of the Department. Consequently we removed these restrictions and then left the power to lease subject to the approval of the Secretary of the Interior.

Mr. CLARK of Wyoming. I want to ask the Senator this question: If it is the intention to remove the restrictions and give the Indians full power over their lands to sell them, why should you limit their power to lease the lands? That is the question.

Mr. CLAPP. I think the Senator will find that the leasing restriction is broad and applies to full bloods as well as mixed bloods.

Mr. CLARK of Wyoming. But this specifically says, in the first place, that the restrictions upon alienations and leasing by Indians of less than full blood are, except as to homesteads, removed after the 1st day of July, 1906; and then it proceeds to limit it:

That nothing in this act contained shall be construed or held to authorize the leasing of such lands for oil, gas, or other mineral without the approval of the Secretary of the Interior.

Mr. CLAPP. We felt that possibly it would be safe to allow them to alienate, as they would exercise more judgment probably in getting fair compensation for their land and there would be less opportunity to get it for less than its value than under leases. So we put in this safeguard—that they shall not lease the lands for oil and other purposes without the approval of the Secretary of the Interior.

Mr. CLARK of Wyoming. Then, acting as men who are relieved from all restrictions upon their land, they are compelled to sell their land if they want to get anything out of it, and are not allowed to lease it from year to year.

Mr. CLAPP. That is true, sir.

Mr. CLARK of Wyoming. In other words, they must make a sale of the lands, and will not be allowed to get any revenue from it by leasing it.

Mr. CLAPP. Oh, yes; they can get a revenue from it if the Secretary of the Interior allows them to lease it.

Mr. CLARK of Wyoming. If they allow somebody else to lease it for them; but they are not allowed to handle it in regard to leasing it, and they are allowed to handle it in regard to selling it. That seems to me to be a singular provision.

Mr. CLAPP. Mr. President, I tried to explain that. This thing is not the easiest in the world to handle between the Department on the one hand and the people on the other. There is one individual who seems never to be thought of here, and that is the Indian. The Indians have to do this.

Mr. CLARK of Wyoming. I supposed the object of the provision was to confer a favor upon the Indian and allow him to deal with the lands. It certainly allows him to sell his land. I think it ought to allow him to lease his land unrestricted and give him some hold upon his land, so that he will not be compelled to sell it.

Mr. CLAPP. I felt, in the adoption of this amendment, that an Indian would be more likely to get his full value in the sale than he would in some lease, which to him would not seem, perhaps, to amount to very much. For that reason, wisely or unwisely, we inserted the provision. Now, that is the only explanation that is to be made of it.

Mr. CLARK of Wyoming. I am obliged to the Senator for the explanation.

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Wisconsin?

Mr. CLARK of Wyoming. Certainly.

Mr. SPOONER. If the Indian sells his land at an inadequate price he is remediless; it is gone.

Mr. CLAPP. Yes, sir.

Mr. SPOONER. But if he leases his land at an inadequate rental he is not remediless, because he still has title to the land, and when the lease has expired he can try this business operation again.

Mr. CLAPP. If the lease includes a term of years that takes the value out of the land in the shape of oil he would not have much of a remedy. It was the wisdom of the Senate we were acting on as to leaving him with the right to sell without restriction, because the Senate amendment to that effect was adopted.

Mr. SPOONER. I may be wrong about it, but it seems to me it is infinitely better for the Indian not to remove the restriction upon his power of alienation, but to grant him only the power to lease, subject to the approval of the Secretary of the Interior, if that can be done, because the whole object of such restrictions is upon the theory that the Indian is unable to take care of himself in business transactions; that he falls an easy prey to the white man who plies him with drink and in various ways beguiles him into parting with his property. The whole basis of such legislation is the assumption that the Indian in point of business intelligence and commercial acuteness is not on a par with the average white man.

Mr. HALE. He needs a guardian.

Mr. SPOONER. He needs a guardian; and it does not safeguard his interest, it does not protect him at all against the wiles of the men who follow up the Indians to get away from them their land to confer upon him an absolutely unrestricted power of alienation and yet leave him where he can not lease the land.

Mr. TELLER rose.

Mr. SPOONER. Am I wrong about it?

Mr. TELLER. I will tell you later.

Mr. SPOONER. If I am wrong I wish the Senator would tell me now.

Mr. TELLER. If the Senator from Wyoming will allow me.

Mr. SPOONER. I beg pardon of the Senator from Wyoming.

Mr. TELLER. I wish to call the attention of the Senator from Wisconsin to the fact that there are no Indians in the Indian Territory.

Mr. SPOONER. They are all American citizens?

Mr. TELLER. They are all American citizens. They have disappeared as Indians.

Mr. SPOONER. Then what right have you to provide——

Mr. TELLER. I do not think we have any.

Mr. SPOONER. That he shall not lease his land without the approval of the Secretary of the Interior?

Mr. TELLER. There is a decision of the Supreme Court made in a certain case which would indicate, possibly, they might claim that control over the property extended some time after they became citizens, because in the deed or patent there were certain restrictions or limitations. It seemed to me, if I may be allowed to say so, that when they became citizens those restrictions were removed by law. That is the way I look at it.

Mr. SPOONER. Then why this provision removing them by law?

Mr. TELLER. I have not been in favor of removing them by law. I have been in favor of asserting that they were removed already.

Mr. CLARK of Wyoming. I will answer the Senator. It was

universally held that they were not removed until removed by statute.

Mr. TELLER. It is an incumbrance on the property that he can not sell it. For that reason we felt it proper to make it possible for him to sell it. I believe the court would hold that he has a right to sell it anyway.

Mr. CLAPP. If the Senator will pardon me one moment. We are told of something the Senate did not put in, and the next moment we are asked why something is done that the Senate did put in. So far as absolutely removing all restrictions as to less than full bloods and absolutely prohibiting all alienation on the part of full bloods the Senate did that.

Mr. CLARK of Wyoming. Then, as I understand the Senator from Minnesota in answer to my inquiry, it is the fact that this section as agreed to by the conference removes all restrictions on the sale of the land of everyone except the full bloods. It places, however, a restriction as to the leasing of the lands for oil, gas, or other mineral, leaving it to the Senate to judge whether that is a consistent or a wise provision or not.

Now, there is only one other matter to which I wish to ask the attention of the chairman, and I should like the attention of the Senator from Colorado also. My recollection is that there was a provision made by the Senate in considering the bill by which certain freedmen were allowed 40 acres only by allotment. It was proposed, and, I think, carried in the Senate, to increase the amount of land which they might acquire. My recollection is that they were allowed to purchase at the appraised value an additional 40 acres. I think the Senator from Colorado was concerned in that matter, and I ask him if that was the action of the Senate?

Mr. TELLER. No; not quite. There were some of them who got less than 40 acres because they were to receive the value of certain land, and it was provided that to make up the 40 acres they could take additional land by buying it.

Mr. CLARK of Wyoming. That is, to make up to 40 acres?

Mr. TELLER. Yes.

Mr. CLARK of Wyoming. That answers the question, and I have nothing further to say on that point.

Mr. CULLOM. Will the Senator from Wyoming allow me to ask him whether he is talking about the clause on page 5 of the conference report where it says:

> Strike out the words "one hundred and sixty," in line 3, on page 21, and insert in lieu thereof the following: "forty;" and the Senate agree to the same.

Mr. CLARK of Wyoming. We put it, I understand, at 160 acres.

Mr. TELLER. That is, they might buy enough to make up 160 acres?

Mr. CLARK of Wyoming. They might buy enough more land at the appraised value in addition to or with the allotment of 40 acres to make up to 160 acres.

Mr. CULLOM. Let me ask the Senator another question. In this paragraph of the conference report the words "one hundred and sixty" are stricken out and the word "forty" put in. What would a person get out of that now?

Mr. CLARK of Wyoming. Forty acres.

Mr. CULLOM. Provided he has 40 acres already?

Mr. CLARK of Wyoming. He does not get any.

Mr. CULLOM. Suppose he has 20 acres?

Mr. CLARK of Wyoming. He gets 20, I understand.

Mr. CLAPP. I think that ought to be explained, perhaps.

These lands were allotted upon a basis of a cash value of the allotment—that is, the lands were appraised and then an allotment was figured, we will say, at $400. I think it was at about $11. Then the allottee was permitted to take as much land as the appraised value would equal the value of the allotment. That sometimes would be less than 40 acres, of course. The object of this provision was to enable these men to come in at the old price, which is a mere gratuity to them, and take enough land to make up what they already had—40 acres. Every acre that they are allowed to take under that condition is, in a measure, in derogation of the right of the Indian. The Senate raised it to 160 acres, not that they might come in and have the preference right to buy 160 acres at its present value, but that they could go back and do what the Indian can not do, file up to 160 acres on the old price. The conferees settled on 40 acres. That is the only explanation of that provision.

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Wisconsin?

Mr. CLARK of Wyoming. I will yield the floor to the Senator.

Mr. LA FOLLETTE rose.

The VICE-PRESIDENT. Does the senior Senator from Wisconsin yield to his colleague?

Mr. SPOONER. I yield to my colleague.

Mr. LA FOLLETTE. I thank my colleague. Mr. President, I could not quite hear what the Senator in charge of the conference report said with respect to the provision that the Commissioner of the Five Civilized Tribes is to be given jurisdiction to determine finally all questions of fact which may come before him.

Mr. CLAPP. On account of that having been asked for by the House I felt it proper to defend it as well as I could, but the Senator from Maine [Mr. HALE], who is unquestionably an authority on that matter, felt that it was not within the order and was subject to a point of order. Therefore, so far as I am concerned, I withdrew it from consideration.

Mr. LA FOLLETTE. Then that goes out?

Mr. CLAPP. It goes out.

Mr. LA FOLLETTE. I wished to address myself to that provision if it was still to be defended by the conferees. Since it is withdrawn it is unnecessary to say anything with respect to it.

But, Mr. President, I desire to address the Senate briefly upon that portion of the conference report which deals with the coal lands of the Indian Territory. The Senator from Wyoming [Mr. CLARK], in referring to the value of these coal lands, said they were easily worth from $10,000,000 to $50,000,000. Right at the outset the Senate can be impressed with the fact that they are dealing with property the value of which is greatly in excess of that sum.

There can be no better authority for the value of these coal lands than the United States Geological Survey. Under its direction these lands have been carefully surveyed with respect to coal deposits.

There are 437,734 acres of coal lands in the Indian Territory. The veins of ore, in so far as the outcroppings will indicate, have been carefully located. Of that amount 104,000 acres, or a little less than one-fourth, have been leased. The Indians receive 8 cents per ton as a royalty under these leases. This yields upon the average $400 per acre in royalties alone. I am assured by the Geological Survey that this would be a fair average for the royalties upon the remaining unleased lands.

This is a most remarkable deposit of coal, running from bituminous coal of not a very high grade up to almost anthracite in quality. There is no other like deposit, so far as I am able to ascertain, of bituminous coal in the country.

Applying the ascertained value of the royalties in so far as these coal lands have been mined to the remaining lands, the computation would show all the lands to be worth in royalties alone $175,000,000.

I believe if the Senate can get even an approximation to the importance of the subject with which we are dealing, it will call a halt here and now upon any further disposal of these lands until the resolution offered by the Senator from Wyoming for an investigation of this whole matter shall have been passed, an investigation made under it, and the results reported to the Senate.

The value of this coal as mined out is from $1.90 to $2 a ton at the mine. Taking $2 per ton as the value of the coal at the mouth of the mine, it means that there is a value of coal deposit in these lands upon the average of $10,000 per acre. Applying this figure to the entire acreage makes a total valuation of $4,377,000,000 for these coal lands in the Indian Territory, something more, I think, than a third of the capitalized value of all the railroads of the country.

Mr. President, the Senate should proceed with extreme caution in dealing with property of this immense value.

What is our responsibility with respect to it? The Government is the trustee of the Indians who own it. Their interest must be protected to the last dollar. Whenever disposed of, it is the duty of the Government to protect the public which is dependent upon these lands for fuel.

Mr. TILLMAN. Mr. President——

The PRESIDING OFFICER (Mr. MCCUMBER in the chair). Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. LA FOLLETTE. I do.

Mr. TILLMAN. Can the Senator tell us how long these leases run?

Mr. LA FOLLETTE. I think the leases run for thirty years. I was about to say, Mr. President, that the proposition made in this conference report to lease these lands is equivalent to the sale of them. When this bill was before the Senate it refused to sanction a sale under any conditions. We spent two days in discussing the section which provided for sale and then the entire proposition was voted out of the bill. As the Senate left it when that section was laid upon the table, there was no

authority or direction to anybody to dispose of a single acre of it.

Now it comes back to us in the form of a conference report, which, as the Senator from Wyoming [Mr. CLARK] has made entirely plain to this body, amounts to a direction to the Secretary of the Interior to proceed to the leasing of the residue of these lands. Between this time and the time when Congress shall again meet every acre may be thus disposed of. But it will be claimed that the Secretary of the Interior can protect the interests of the Indians and the interests of the public.

The Secretary of the Interior has many duties to discharge; he has upon his hands a vast Department dealing with great propositions and great problems; this is a small portion of it; and with respect to this I think it is fair to presume that he must, in large measure, depend upon the suggestion of subordinates in his Department. The Secretary of the Interior can not give personal supervision to everything which issues from his Department. Why, Mr. President, when the subcommittee presented this bill to the Committee on Indian Affairs it provided for the sale of these coal lands in a way which would have protected neither the interests of the Indians nor the interests of the public. We were informed by the chairman that the provision came from the Interior Department. It proposed to sell all of the coal lands. They were to be appraised. One appraiser was to be selected by the Indians, one to be selected by the Secretary of the Interior, and one to be selected by the lessees of those coal lands. It contained a further provision that the lessees were to have the right for a period of some months after the appraisal to take the lands at the appraised value. There was to be no open sale. They were not to be sold to the highest bidder. It was also provided that the lands were to be appraised without taking into account the value added by mining development.

I do not mention this as a reflection upon the Department of the Interior, but merely to suggest that we should not impose too many burdens upon a great Executive Department of the Government.

So, I say, Mr. President, that we must proceed with the greatest caution. We should take a lesson from the conditions existing with respect to the coal lands already leased in the Indian Territory, through the Interior Department, under provisions for which Congress is responsible. What is the situation there at the present time as to the portion of the land already under lease? There are 113 leases and 52 of them are openly under the control of railroad companies. There are five railroad companies whose lines run through this coal region. These roads connect with lines which distribute this coal over something like 10,000 miles of railroad. There is a vast area of country dependent upon the coal of the Indian Territory for fuel. Within the next five years not less than 10,000,000 people will take their fuel supply from these coal beds. As to the lands already leased, the public are completely at the mercy of these railroad companies. Their control is absolute. They dictate as to conditions and prices.

Every railroad company, I think, whose lines cross the coal lands of the Indian Territory secured its right of way under acts of Congress which impose a certain specific obligation upon them, and it is very interesting to note what that obligation is.

When the railroad rate discussion was on here the other day a controversy arose between the Senator from Texas [Mr. CULBERSON] and the Senator from Ohio [Mr. FORAKER] with respect to whether there had ever been any legislative construction of the constitutional provision regarding the right of Congress to fix rates. The charter of the Texas Pacific Railroad Company was cited as bearing on that question.

The Senator from Texas contended that in granting that charter Congress fixed transportation charges under the commerce clause of the Constitution. The Senator from Ohio contended that the Government imposed the condition with respect to rates under its proprietary right to grant it a franchise and impose any condition it pleased. But, Mr. President, in every one, I think, of the five Congressional acts which permitted these railroad companies to cross these Indian lands there was a provision regulating the rates that they should charge in the Indian Territory. Sometimes the regulation was imposed with respect to one adjoining State as the standard and sometimes with respect to another State as the standard.

I have here before me, Mr. President, the rates charged upon coal transported by one of these railroad companies as compared with the rates in Texas fixed as the standard for this road in the law granting it a right of way through the Indian Territory.

Freight rates on coal from Wilburton, on the Chicago, Rock Island and Pacific Railroad, successors to the Choctaw, Oklahoma and Gulf Railway, in the Choctaw district, Indian Territory, compared with the rates on coal for similar distances in the State of Texas.

Wilburton to—	Distance from Wilburton, in miles.	Rates per ton of 2,000 pounds on coal in Indian Territory.	Rates per ton of 2,000 pounds on coal in Texas for the same distance.	Excess per ton in Indian Territory.
Barnett, Ind. T	41	$1.25	$0.65	$0.60
Stuart, Ind. T	51	1.25	.70	.55
Calvin, Ind. T	62	1.25	.75	.55
Holdenville, Ind. T	75	1.25	.80	.45
Wewoka, Ind. T	83	1.40	.85	.55
Ardmore, Ind. T	135	1.50	1.10	.40
Provence, Ind. T	129	1.50	1.05	.45
Durwood, Ind. T	124	1.50	1.05	.45
Mannsville, Ind. T	118	1.50	1.00	.50
Russet, Ind. T	111	1.50	1.00	.50
Randolph, Ind. T	108	1.40	.95	.45
Milburn, Ind. T	94	1.40	.90	.50
Wapanucka, Ind. T	80	1.35	.80	.55
Coalgate, Ind. T	63	1.25	.75	.50
Herbert, Ind. T	49	1.25	.65	.60

NOTE.—The rates between points in Texas are on single-line haul. When haul is over two or more lines, the rate is greater. The rates quoted to Indian Territory points are also for single-line haul, so that the comparison is fair.

It is unnecessary to consume more time in taking up each one of these roads with reference to the States with whose rates they were bound to comply. Enough has been said to show the violation of the provisions of the right of way under which they went into the Indian Territory.

It is impossible for an independent coal operator to get fair treatment in the Indian Territory as elsewhere in the country, when he comes in competition with transportation companies engaged in the same business. I have some letters from residents of Indian Territory and from others who have investigated the situation. They show clearly the bad results of leasing the 104,000 acres under the existing law. With permission of the Senate, I will have them printed in connection with what I have said on the subject.

Now, Mr. President, I believe it to be the duty of Congress to withhold every acre of land remaining in Indian Territory from disposal either by sale or lease until Congress is more fully informed upon the subject than it is at this time. If, however, the lands are to be leased, it should be understood by this body that leasing is equivalent to sale. A lease covers a period of time that enables those taking it to work out the coal, and that is equivalent to selling the mineral rights of the land. Whether sold or leased the Government has absolute control. It is bound, in dealing with this important question, to indicate its position clearly and specifically. It should see to it that no railroad company becomes the owner of the products which it transports over its lines in competition with other producers.

So I say that if the conferees are going to yield to a proposition in this bill that these lands shall be leased, they should insist that the lands shall be leased only under restrictions and limitations that shall absolutely exclude the railroad companies from becoming the holders, either in the first instance or by assignment, of any of those leased lands. To effect this it will be necessary to provide that the lands shall not be leased to railroad corporations nor to the officers or the stockholders of railroad corporations, nor assignable to railroad corporations or to the officers or stockholders of railroad corporations or to anyone else acting directly or indirectly for them. Otherwise they will eventually pass into the hands of those who will simply stand as the representatives of the railroad company for the purpose of controlling these coal lands and the shipment of the coal in competition with independent producers. I believe there should be incorporated in such lease not only the provisions I have suggested, but the provision that the lease shall become absolutely void upon being so assigned.

Mr. NEWLANDS. Mr. President, I should like to ask the Senator from Wisconsin whether he does not think it would be better to provide, if possible, that the remaining lands shall neither be sold nor leased until the Secretary of the Interior shall report to Congress a plan for their disposal, so as to prevent the lands falling into the hands of a monopoly, whether that monopoly be a railroad company or any other kind of a company?

Mr. LA FOLLETTE. Mr. President, I think that would be a good provision, but I would supplement it by adopting the resolution offered by the Senator from Wyoming [Mr. CLARK], that the Senate shall make an independent and thorough in-

vestigation and report to this body at the next session. Such an investigation will aid us in considering any recommendation made by the Secretary of the Interior.

Mr. NEWLANDS. I was not aware that such a resolution had been submitted.

Mr. LA FOLLETTE subsequently said: Mr. President, I ask leave to print, in connection with the remarks I have made, certain papers relating to the matters with which I have dealt.

The VICE-PRESIDENT. Without objection, permission is granted.

The papers referred to are as follows:

MUSKOGEE, IND. T., *March 15, 1906.*

Hon. ROBERT M. LA FOLLETTE,
United States Senator, Washington, D. C.

DEAR SIR: Your favor of the 7th instant, acknowledging mine of the 28th ultimo, was received while I was engaged in a little investigation of my own to ascertain the conditions pertaining in the southern section of the Territory. What I have learned convinces me that the only remedy—the only course to be pursued—is the one suggested by you—i. e., lease the coal lands under restrictions preventing the railroads either directly or indirectly geting control of them.

These lands should by no means be sold, for two reasons: (1) It would be impossible at present to get what they are worth if thrown on the market; (2) restrictions against the ownership of more than a certain number of acres would be an absolutely dead letter after the lands are out of the control of the Government, in view of the many ways to evade such a law and the difficulty not only to prove violations, but to enforce the law after proof.

Looking at the matter from the standpoint of material good to the greatest number, I believe the following is obvious:

To sell at present, the true value will not and can not be realized. The profits would therefore go to the railroads and other allied corporations, who are bound to get them. By keeping the fee under restriction and leasing for the benefit of the Indians, the latter would have an income for some years, and they will need it badly. Then when the lands are finally sold the natural increase in value owing to the settlement of the country, with its increased demands for fuel, will be distributed, not among a few corporations, to be removed from the Territory, but among the entire people through the natural channels of trade.

By keeping these lands in the control of the Government, with proper restrictions, it will be possible to enforce a law prohibiting the control—a monopolistic control—of this public necessity. If left in the hands of the Secretary of the Interior with a proviso that any violation shall make the lease void (not voidable, thus throwing the necessity for action on the delinquent), it will be much better.

However, conditions are rather discouraging, and it looks like an impossibility to prevent the despoilation of these people—ultimately, I mean. Should it be possible to have the recording of fraudulent deeds made a crime, it would at least have a deterrent effect. Such a law would not only provide for making it a crime to taking an instrument with intention to defraud, but should apply to the "knowingly recording, attempting to record, or causing to be recorded, or knowingly to accept title so derived." This would catch many outstanding instruments.

Thanking you for your courtesy, and wishing you every success in your efforts to restrain within legal bounds those who by their powerful influence appear to be able to violate law with impunity, I am,

Very truly,

C. G. STEPHENSON.

NEW YORK, *February 20, 1906.*

Senator LA FOLLETTE, *Washington, D. C.*

MY DEAR GOVERNOR: You are on the right track. "There is lots of meat in this cocoanut."

The Choctaw, Oklahoma and Gulf Railroad runs from the Arkansas line to Ardmore over a solid bed of coal down a valley from a quarter to a mile wide. I once thought of trying for some of this land myself, but I found "the railroad had no cars," and knowing "the game," having been a railroad man, I kept out and did not join "Les Miserables" who had already invested. If you will look up the early charterers, builders, owners, and head railroad men of the Choctaw, Oklahoma and Gulf you will find the Pennsylvania cloven foot sticking out in every direction, such as Wistars, Browns, etc.

You will also find the Goulds, I think, as they were "boring" all through the Territory. If you will call on the Interior Department to expose the various leases and terms, I think you will uncover the biggest thing you have seen in a long time.

I recollect three years back, when I was up in the Creek Nation, there was to be a survey and leasing of Indian oil lands. People told me there that when they went to Washington to file their leases they found them all covered by pets—Cudahy and others.

The only solution of this problem is to reserve all terminal rights to and for the Indians in perpetuity and allow them the usufruct from mining the same in the shape of a royalty of 25 per cent of the sale price.

Yours, JNO. REED.

HOWE, IND. T., *March 20, 1906.*

Senator LA FOLLETTE,
United States Senate, Washington, D. C.

SIR: I notice there is a motion in the Senate to investigate the coal lands in the Indian Territory. Now, if there is an investigation we would like you to see that the leases at and around this town of Howe be especially investigated. There are five leases of about 920 acres each held here, I think, originally by the Choctaw, Oklahoma and Gulf Railway Company and perhaps subsidized by that company to the Mexican Gulf Coal and Turpentine Company.

Now, of the five leases aforesaid, they are only working one, and there never has been any coal taken from any of the other four leases, except three or four years ago. The Mexican Gulf Coal and Transportation Company started to open up a slope on another, but soon abandoned the work on it. How can they hold the four leases which they do not work, and keep other people from working them or buying them? They may have put in coal from the only one that they work and claim it is from the other leases.

Now, if you can do anything to have the surface of the coal lands sold, please do so, for our town is in the midst of a huge body of segregated coal lands, and if the lease system is continued our town will be dead.

Respectfully, HOWARD WELLBORN.

Mr. BACON. Mr. President, there is one view of this matter which I think ought to control the Senate in its action on the report of the conference committee. It is this: The proposition before the Senate, when the bill was under consideration with reference to the thirteenth section, was that these leases should be made without restriction. The junior Senator from Wisconsin [Mr. LA FOLLETTE] called the attention of the Senate to the matters about which he has so earnestly spoken to-day, and, in consequence of suggestions made by him and information which he gave to the Senate, it was entirely evident that the Senate would not enact this provision into law without very material amendment, by which amendment it was intended to restrict the railroad companies, and any persons acting in their interest, from controlling these coal mines, having both control of the product and of the transportation at the same time—a matter which has been recently condemned by the Supreme Court of the United States in a case which we have had recently so often cited.

Mr. CLAPP. If the Senator will pardon me, as I understood the discussion on that day, although I admit that by the time we got into the plan of the Government to purchase these lands the matter became somewhat complicated—but as the matter was presented here the suggestions of the Senator went to the proposition that had been reported to the Senate for the sale of the lands.

Mr. BACON. I did not catch what the Senator said.

Mr. CLAPP. I say the proposition of throwing around these lands restrictions as to ownership, as I understood at the time, went to the proposition that had been reported to the Senate for the sale of the lands. I certainly understood that the rejection of the House plan was simply for amendment, so that it might go into conference; and, while the Senate was not ready to sell the land, in view of the fact that we had prohibited the leasing when we authorized the sale two years ago, that now prohibiting the sale was for the purpose of restoring the power to lease.

Mr. BACON. I had not fully stated my proposition before the Senator suggested his view of it.

I was trying to recall to the Senate the history of what occurred. The Senator will remember the very earnest debates we had upon that question, in which were discussed the very great evils of permitting the railroad companies to be at once the producers of coal and the transporters of coal. The very large interests involved were set forth and presented to the Senate by the junior Senator from Wisconsin, as he has done to-day with equal earnestness and with equal clearness. The point to which I desire to direct the attention of the Senate at this time in reference to the precise question whether or not this report should be agreed to is this: That that discussion, I think, while no vote was taken in regard to this matter, had brought the Senate to a point where they certainly would not have authorized either the sale or the lease of this property without amendments which would guard against the possibility of the railroad companies which were to haul this coal being at the same time the owners and producers of the coal. Not, Mr. President, that there was a disposition to restrict the railroad companies as such, but because of the manifestly proper objection against the railroad companies which were engaged in the transportation of it being at the same time the owners and controllers of the product of coal.

That discussion went on; one amendment ofter another was suggested, and the matter was nearing a point where a satisfactory solution was about to be reached by the Senate, when a suggestion was made that a still more perfect remedy would be found in the amendment offered by the Senator from Colorado, if I recollect aright, to strike the section out entirely. That was adopted by the Senate, not because the Senate viewed with disfavor the suggestions of the Senator from Wisconsin, or with disfavor the amendments which were then being presented to the Senate for the purpose of accomplishing that which he advocated, but because it was deemed that the amendment offered by the Senator from Colorado would more perfectly effectuate the purpose of removing altogether the right of the authorities to either sell or lease these lands until there should be further information and further authority on the part of the Government.

The bill goes into conference in that condition without the amendments which we otherwise would have put upon it; it goes with the naked proposition authorizing these leases. If the proposition to authorize leases had gone to the conference with the approbation of the Senate, it would have gone there with these restrictive amendments. As it was, being stricken

out altogether with only sufficient amendment put in to carry it to conference, it goes there without the restrictive amendments; so that when the proposition now is to recede from the action of the Senate, the effect of it will be to restore the original proposition, without the amendments which the Senate put upon it, or would have put upon it if the section had not been entirely stricken out.

I think the Senator from Wyoming is absolutely correct in his presentation of the matter, that to agree to the report is to surrender entirely that which we had intended to prescribe as the conditions upon which there should be hereafter any sale or lease; and, if we adopt the report, we put it within the power of the Interior Department, or those acting for it, not only to lease these lands without restriction, but we put it without their power to make any restriction; and the very evils complained of, and, I think, very justly and properly complained of in the presentation of the Senator from Wisconsin, will be those which will be realized and which we will fail utterly to meet or to try to guard against.

I think, therefore, Mr. President, that, outside of all other questions, so far as the report of the committee is concerned with reference to the thirteenth section, there should be no question that we should reject the report. I am only sorry, Mr. President, that all the Senators who may possibly be called upon to vote on this question were not here to hear the presentation of the subject made by the Senator from Wisconsin.

Mr. CLAPP. There is nothing to vote on. A point of order was raised, I think, by the Senator from Colorado [Mr. PATTERSON] and was advocated by the Senator from Maine [Mr. HALE]. The point of order carried the whole report with it. There was no objection, however, to the Senator from Wisconsin [Mr. LA FOLLETTE] going on with his remarks.

Mr. TILLMAN. What becomes of the bill?

Mr. CLAPP. It goes back to conference, of course.

Mr. BACON. If the Senator had stated that to me before I began—I did not really hear what the Senator from Maine said, as he spoke in a very low tone—I should have had no desire to occupy the time of the Senate. I am only after practical results.

Mr. CLARK of Wyoming. I will say to the Senator from Georgia that this entire discussion was invited by the Senator from Minnesota when he withdrew the report, saying he would like to have the views of the Senate upon it.

Mr. BACON. I did not hear either statement.

Mr. CLAPP. But I was calling the attention of the Senator to the fact that no vote could be had upon this provision. The discussion was desired simply to get the sense of the Senate.

Mr. BACON. I did not know that fact when I took the floor, or I should not have occupied the time of the Senate. I understand, however, though I did not then know the fact, that the Senator had invited an expression of views.

Mr. CLAPP. I had.

Mr. TILLMAN. I was not in the Senate when this matter originally came up, but I have had occasion to examine somewhat into this question of coal and railroad monopolies of coal, and I have some very radical views in regard to this Indian Territory deposit of coal, which has been shown by the Senator from Wisconsin to be very valuable. It seems to me—in fact, I have information to this effect that has come from all directions since I have been placed in charge of the railroad rate bill—that at this moment the railroads of this country have practically monopolized the fuel supply of the United States—that is, speaking broadly. Of course there are private operators, and there are large areas of coal lands which are not yet in the possession, by purchase or lease, of the railroads, but for all practical purposes the coal which is now being mined is almost wholly under the control of the railways of the country; they very largely fix the price to the consumers throughout the country, and they are very energetically pursuing the policy of securing the control of all the balance of the coal lands in the country.

But speaking of this particular area of coal land, I want to make this observation, that when you consider that there is a region of treeless prairie, where there is only an occasional cottonwood or willow on the banks of a stream, and all of that country is dependent upon coal for fuel, it becomes a great public responsibility for those of us who have to deal with this particular subject now—we will have to deal with the broader subject later—I say it becomes a matter of very deepest concern that we should not make any false step in the disposition of the coal in the Indian Territory.

The United States Government once owned this land, and we donated it or sold it or gave it to the Indians in exchange for their lands east of the Mississippi. In our rôle of guardian, looking out for the interests of the Indians, we ought not to forget that we are also guardians for the white people, and that the interests of the millions of farmers now out there and to be there ought to be looked after in connection with caring for this coal deposit, which will be the future coal supply of the men who will make homes in Oklahoma and the Indian Territory and northern Texas and Kansas and Wyoming, and all that other region over there. The Almighty has been very generous to us in this country in giving us the great blessing of fuel scattered broadcast almost, except on the South Atlantic coast. But this particular body of land being under our jurisdiction, and to be disposed of by lease, sale, or otherwise by us as guardians for the Indians, the question that presents itself to my mind is whether we ought not simply to withdraw this land from sale to anybody; let the United States appraise it and set apart a reasonable amount of purchase money, the interest on which shall be paid to the Indians, and hold this coal deposit in perpetuity, so as to furnish coal at reasonable price to the millions of people who will live in that region in the future, without having those people subjected to the levy of tribute by railroads and capitalists, who will certainly get control in one way or the other, just as they now absolutely control the anthracite coal fields in Pennsylvania, levying tribute upon the millions of people who have to use anthracite every day in their lives, and charging them a dollar to a dollar and a quarter or a dollar and a half a ton more than a reasonable and fair price. If we will do wisely we will buy these lands from the Indians and hold them by the United States Government, and let the Government lease them under such conditions as will afford to the millions who will live there fuel at a reasonable price.

Now, why do I say this? Among my numerous correspondents, who have buried me under letters of one kind and another, many of them unduly complimentary and laudatory of my patriotic efforts in endeavoring to help the President get a good railroad rate bill, I have one from the secretary of a farmers' association at Edmond, Okla., and listen to what he says. I will leave out the compliments to the cornfield lawyer. It would be in bad taste for me to read them. The Senator might read them if the letter came to him. I will merely go to the milk in the cocoanut in regard to coal:

> Now I am going to call your attention to the discrimination of the Santa Fe Railroad against our little town of Edmond. We are about halfway between Guthrie and Oklahoma City. We pay $8 a ton for coal and are only about 125 miles from the mines in South McAlester.

Eight dollars a ton for bituminous coal. The writer goes on to say:

> Now, the Santa Fe Railroad will not haul our coal 16 miles from Oklahoma City and will not receive it there from the Rock Island Railroad. But we are compelled to use coal from Colorado. Why? Because the Santa Fe gets the long-haul freight. Why don't you look after the Rock Island Railroad Company, who owns the old corporation which was the Choctaw, Oklahoma and Gulf Railroad?

Well, we are trying to look after the Rock Island, including the others.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Nevada?

Mr. TILLMAN. Certainly.

Mr. NEWLANDS. Let me say right here that there may be one additional reason for the insistence on the part of the Santa Fe Railway Company that the coal should be delivered from Colorado, and that is the fact that the Santa Fe Company, according to my recollection, is a very large stockholder in the Victor Coal Mining Company, in south Colorado——

Mr. TILLMAN. Undoubtedly.

Mr. NEWLANDS. The corporation referred to by the junior Senator from Colorado the other day as holding a very large area of land in south Colorado which twenty or thirty years past was the property of the entire people of the United States as public lands.

Mr. TILLMAN. Yes; and we sold it or gave it away.

Mr. NEWLANDS. Gave it away.

Mr. TILLMAN. Corporations now own it, corporations which levy tribute on this farmer and every other farmer in that region, and then this particular corporation refuses to make connecting rates with the line that runs to South McAlester, a hundred and twenty-five miles away, which would enable it to haul domestic coal to the people living in the neighborhood, but brings it six or seven hundred miles from its own mines in Colorado, and says to these people, to this cornfield—not lawyer, but farmer—"What are you going to do about it?" and he writes to me. I want to ask the Senate, What are you going to do about it?

Let me go on:

> Don't you know they virtually own all the coal lands on their line in the Indian Territory?

These very lands about which the Senator from Wisconsin has been telling us and which we are talking of leasing and selling and turning Mr. Hitchcock loose under the House provision and the conference report, if we were to adopt it. He says:

They surveyed the coal beds before they located the road, and leased all the coal lands from the Indians and Government officials, and with all the watchfulness of the Secretary of the Interior they are still so held.

If the junior Senator from Wisconsin could go a little further and get all the facts, he would find that instead of out of the hundred and thirty coal leases only fifty or sixty, whatever the figures are, about half, being in possession of the railroads, I will bet you—no; I will take that back; I will not bet here; but still I would be willing to put up some money to back my judgment—that the railroads to-day, by one instrumentality or another, by transfer or lease, or by having some bogus lessee who is their friend and ally, control all of those lands, and if they do not actually control them they control the output and the price, and the private operators, if there be any, are to-day as helpless as the private operators are in West Virginia.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. Certainly.

Mr. LA FOLLETTE. If I was understood as saying that the 52 leases out of the 130 were all the leases that are controlled by the railroads, I did not express myself clearly. Fifty-two of the worked leases are controlled by the railroads. That they control unworked leases, I have some indubitable evidence in my possession. I have one complaint from a citizen in Howe, in the Indian Territory, in which it is stated that near that town there are four of these leases, each lease covering something over 960 acres of land. A little less than a thousand acres of land is taken in under each lease. There are four of those leases near the town of Howe, in the Indian Territory. Three of them are not worked at all. One of them is worked. They are all of them controlled and owned by railroad companies. Three of them are not worked; one of them is worked.

The figures I gave of the fifty-two leases included those now being mined. Of the unworked leases I am unable to say how many are under the control of the railroads

Mr. TILLMAN. I will repeat my parliamentary phrase. I will bet, if you could get at the bottom facts, you would find that practically every one of those leases is to-day controlled directly or indirectly by the railroads.

Let us proceed with my cornfield friend:

It is thought by the people living here that H. C. Frick had a large interest in the deal of the sale of the Choctaw, Oklahoma and Gulf Railroad to the Rock Island. Those things are just what the American people think or have no means of finding out the real status of affairs. The cornfield lawyer is always awake, however—

He means himself—

and with all of Uncle Sam's school-learned lawyers they allow such fellows as McMurray Cornish and other small fry to get nearly $1,000,000 in fees.

Hoping you will have success in your new rôle, and that your State may keep you in the Senate,

For my fellow-farmers, I remain,

Respectfully, yours,

S. W. MURPHY,
Corresponding Secretary.

Now, here is a man, and there are just about seven or eight millions like him, I should say, good Republicans and Democrats all over this country, who are loyal to their party, loyal to their country, taxpayers, patriots, appealing to the Senate of the United States to give them such a law in regard to railroad management and regulation as will put a stop to the outrages of which he speaks in connection with this coal business.

I do not hesitate to repeat what I have said once or twice before, for it ought to be repeated until the country begins to take notice of it, that the fuel supply of the United States is to-day largely in the hands of railroad corporations, who monopolize it, and they are continuing to reach out to get the balance, and unless Congress takes some steps to stop, to prevent, to punish, if need be, the combination of the production of coal and its transportation by any hocus-pocus or hook or crook, nobody knows what will come, because if another anthracite coal strike comes in the winter, comes when the people are freezing, and these thirty or forty millions of people off East and Northeast and around here to Canada who use anthracite coal are confronted by their inability to get coal to keep their families warm, gentlemen, there will be something doing in the United States.

Mr. SPOONER. Mr. President, only a few moments. I understand that this report is to go back to the conference committee, and therefore while the Senate is not to vote upon it, it is not improper for Senators to give expression to the views they entertain upon the subject, perhaps in a way for the guidance of the Senate conferees, provided it is entitled to weight in future deliberations upon this bill.

It was clearly understood when the bill passed the Senate, I think it was almost the unanimous sentiment in the Senate, that for several reasons these coal lands ought not to be sold. The proposition which was reported from the Committee on Indian Affairs, and which was much debated here and to which amendments were proposed, was one authorizing the sale of these lands and an attempt to protect the trust estate and the public interests by restrictions to be wrought into the conveyance.

It is almost impossible, as I said in a single sentence in that debate, efficiently to protect the public interest by limitations upon the power of alienation. It is difficult to conceive, if it be possible to conceive, of restrictions which would not be easily susceptible of evasion, and practically, except perhaps here and there a case, inoperative. The proposition that the Secretary of the Interior shall be permitted, without limitation other than that contained in the House bill, to lease these lands is one, I think, from the present standpoint, inadmissible in the public interest.

In the first place, Mr. President, this is a trust. The Government of the United States does not own these lands. The Government holds these lands in trust for these tribes and their posterity. The Government may become a trustee. It was so held years ago in the Tuckerman case as to the State of Michigan, and it was held that as a trustee the State was bound by the rules which govern trustees generally and differed from no individual trustee, except that being a sovereign it could better administer the trust. As a trustee, Mr. President, no reason could be given why these lands should be sold. They will constantly increase in value. Owned by a great estate they would not be for sale. No better property can be found to hold. They should not be sold, nor should they be unrestrictedly leased at anybody's will.

As the law stands to-day, what restrictions may the Secretary lawfully put in the leases? Whether these lands shall be leased to corporations or whether they shall be leased to one man or another with reference to his connection with corporations is not a question which Congress has committed to any executive official. That is a matter for Congress to provide for by legislation conserving high public policy. The only method by which they should be disposed of is the lease, for the reason that the lease can be controlled, and efficiently controlled. Prohibition upon the assignment of any lease without the consent of the Secretary of the Interior or the approval of the President is entirely within the constitutional capacity of Congress. The reservation of the right to forfeit for breach of any condition of the lease is entirely within the constitutional capacity of Congress, and it may be so framed as to be easily exercised and to afford quick and adequate protection. Nobody except those who are otherwise interested wants this great body of fuel to pass into the hands or under the control of transportation companies.

So I think, if the conferees on the part of the Senate are not satisfied in framing appropriate legislation restricting the leases and safeguarding the public interest as well as the interests of the cestui que trust, they should entirely withhold their agreement from the proposition in any form. It is not easy——

Mr. CLAPP. I should like to ask the Senator if he could, with all his acknowledged skill, frame a provision that would effectually and practically prevent in the last analysis transportation companies from getting hold of the property?

Mr. SPOONER. I am afraid if I say it can be done, the question will be followed up by a request for me to do it. I think it can be done. One thing is very certain. If it can not be done those lands ought neither to be sold nor leased, because the Government is not helpless. The lands are not subject to taxation. The Government is under no pressure to make haste in disposing of these lands; not at all. There is no overwhelming public necessity which calls upon the Congress this winter or next winter or for many winters to come to dispose of these lands. No one thinks, I take it, that with the lapse of time and the consumption of coal in other parts of the country these lands will diminish in value. Short leases of these lands, with the privilege of renewal under certain restrictions, would go a long way to protect them if the execution and administration were honest and efficient. But, Mr. President——

Mr. TILLMAN. Mr. President——

Mr. SPOONER. No; the Senator will excuse me. I wish to conclude.

Mr. TILLMAN. I merely wish to give the Senator something along the line he is just discussing.

Mr. SPOONER. I will yield.

Mr. TILLMAN. I have made a rough calculation, and if the junior Senator from Wisconsin is correct as to the immense

amount of coal, and I have no doubt he is, there have been leased enough lands to produce 665,000,000 tons of coal, and I do not think there is going to be any dearth of coal around there in the next forty years.

Mr. SPOONER. I do not understand the necessity for haste about it. The lands will be there next year and years hence. I think that Congress ought to take its time about this matter, which is very grave and in some respects involves great interests.

But I rose really to call attention to section 19. It is very much as the Senate passed it. But as it is in conference with a locus penitentiæ, I should like to say a few words about it. I used to know something about the Indians. I saw some things among them that made me think they were devils incarnate, and I saw some things among them that taught me to know that they were human also. They have been treated as wards of the Government. They have been treated during all these years as incapable of managing their own affairs in competition with white men. I think it was a great mistake to make citizens of them. It was not at all necessary, in order to make allotments of land to the Indians and to put each Indian upon a tract of land which he owns, that he should be taken out from the guardianship of the Government at all. The Indian was no more fit to be a citizen of the United States when he had become the owner of a hundred and sixty acres of land than he was before.

The laws under which that was brought about treated the Indian as unable at this day efficiently to protect his property interests, because the allotments and the patents issued upon the allotments contain a restriction upon the power of alienation. You can by law make an Indian a citizen of the United States, but you can not by law change Indian nature. You can not by an act of Congress make a man prudent, thrifty, able to attend successfully to business affairs, to deal on an even plane with the experienced, educated, and rapacious white man. Whether making them citizens operates to remove from the patents which have been issued to them the restrictions upon alienation has not been determined. It could not have been the purpose of Congress. I would not be willing to impute to Congress any such purpose.

But I notice that every time an Indian bill has come into the Senate during the last few years it has contained proposition after proposition, taking pages of the bill, removing the existing restrictions upon the power of alienation. This bill is inconsistent upon that subject. Notwithstanding citizenship, it still assumes the power of guardianship. It will be an unhappy day for the Indians, the members of a vanishing race, if the court shall hold that citizenship destroyed these limitations upon the power of alienation. The Indians will become the prey of the white man everywhere, and it will not be long until relatively few Indians will own the lands which had become theirs under the system of allotment. The Congress ought to legislate upon the basis that citizenship and allotment have made no difference with the Indian nature or with the power of the Government to protect the Indians against their own weaknesses and against spoliation by white men.

I wish to call attention to section 19. It reads:

> That all restrictions upon alienations and leasing of lands of Indian allottees of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes of less than full blood are, except as to homesteads, hereby removed.

Why "except as to homesteads?" Why prohibit American citizens, made capable by law of protecting their property interests, of looking after the future of their families, from conveying, with the concurrence of the wife, these homesteads? All citizens have that right in the States as to homesteads.

Mr. TELLER. Not all.

Mr. SPOONER. Well, they do in my State. This reservation of a restriction as to homesteads implies a legislative theory that these people still need the care of the Government, and every Senator here knows that they do.

Mr. BACON. It also involves a recognition of our right to control them.

Mr. SPOONER. Certainly. I think we have a right to control them.

Mr. CLAPP. That is the reserved right. It does not involve the recognition of our power to control wherein it has ceased to have it. This provision still continues to reserve the power.

Mr. SPOONER. I think the Senator is correct. There is a distinction and a very clear distinction. But let us not go beyond the line which this policy, which I think was a mistaken one, has clearly drawn. Certainly I think it must be true that as to those to whom lands were patented with these restrictions prior to becoming citizens the restrictions hold. I am not sure but that it would hold now by the doctrine of estoppel. Where a deed is accepted containing a restriction the grantee might be estopped to repudiate the restriction.

Mr. BACON. As I understand the suggestion of the Senator from Minnesota [Mr. CLAPP], while it is true that that distinction exists, the power of reservation as to the remainder has not been surrendered by us.

Mr. CLAPP. When the Senator gets a little further on he will find that we do attempt in this bill—and the bill passed the Senate in that form—to now reach out and withdraw the grant we previously made of alienation. I wish in this connection to call the attention of the Senator from Wisconsin to the fact that a different rule obtains in different reservations. Undoubtedly where the Government is buying the land, and the court has so decided, the Government can attach these restrictions. In the Indian Territory, outside of the reservations in the northeast part of the Territory, this property was the property of the Indian when the several laws were passed. We simply passed laws to distribute what already belonged to us. That might make a difference in our legal attitude, of course.

Mr. SPOONER. What distinction is there as to the power of the Government to create restrictions upon alienation between a half-blood citizen of the United States and a full-blood citizen of the United States?

Mr. CLAPP. There is none as to that, but there is a difference between the working of the doctrine of estoppel where you grant something and the party takes it with that restriction and where you are simply distributing what already might belong to us. That is the point I was making.

Mr. SPOONER. That is true.

Mr. President, why remove the restriction upon alienation and leave a restriction upon the power to lease? What is the theory of that?

Mr. TELLER. There can not be any, I think.

Mr. CLARK of Wyoming. That was fully explained by the Senator from Minnesota [Mr. CLAPP] when I asked the question.

Mr. SPOONER. The restrictions ought to be left upon the power of alienation, and the power of leasing ought not necessarily to contain any restriction whatever. That would protect the Indians, if it is within the constitutional capacity of Congress now to do it. Leave the restriction upon the power to alienate. The Indian may make an improvident lease, but the fee still belongs to him, and when the term of the lease shall have expired he has his land and the power to re-lease it if he chooses, or the power to occupy it. But when you remove the restriction from the power to alienate, to convey, you make him the victim of every scoundrel who cares to make him drunk in order, while he is irresponsible, that he may beguile from him his patrimony. That danger does not exist except to a trifling extent in the exercise of the power to lease.

This is plain to me. I can not see any reason, certainly none in the interest of the Indian, that restricts this temporary alienation of land, but permits him without restriction to forever part with the title and dominion. If any change is made in this language, it should be to take out of it the provision which removes restrictions upon alienation and leaves the Indian where he can be despoiled.

Mr. TELLER. Mr. President, I wish the Senator from Wisconsin was a member of the Committee on Indian Affairs.

Mr. SPOONER. What have I done that the Senator should wish that?

Mr. TELLER. Many of us have been considering difficult Indian questions for several weeks in that committee, and if the Senator had been on the committee I do not think he would know any more than he does now about them; and I think he would be ready to admit that he did not know much about it.

Mr. SPOONER. I am ready to admit that now.

Mr. TELLER. It is a problem pretty difficult to solve. There are 90,000 Indians in the Indian Territory. Twenty-four thousand is supposed to be about the number of half bloods. Then there are all grades from a quarter blood and an eighth to the full white man. There are men and women there who claim to be Indians by descent and who are as white as any member of this body. There are men and women there who are as perfectly competent to take charge of their affairs as anybody here. Yet they are Indians. I do not mean that they are Indians now, but they were Indians under the law.

I made a trip some years ago through the Indian Territory with a committee. We spent a month down there. It has been my fortune to live in the neighborhood of Indians ever since I can remember. When I was a boy living in New York I lived by the side of an Indian reservation. I know something about the Indians, and I know something about their character.

About twenty-five years ago, or a little more, there arose in this country great interest in the Indians, especially amongst people who had never seen an Indian and knew nothing about

him. They organized societies for their culture and education. It suddenly struck somebody that really what these Indians needed was a title to a piece of land. The impression went out very strongly, I think, amongst the benevolent people who were really desirous of doing good that all you had to do was to give them a piece of land and civilization would follow.

We had tried that before. Five thousand patents were issued at one time in the State of Michigan, with a limitation of five years. It did not civilize the Indians. It is said that a year after the five years expired there was not a single piece of the large section of country that had been allotted to them and patented to them that was held by an Indian.

I think about four years ago, by a bill called the "Curtis bill," it was supposed that we had really settled the Indian problem.

That bill provided that when an Indian took an allotment he then became a citizen of the United States. That was not enough. At a subsequent time we provided that on the 4th of March, 1906, all Indians in the Indian Territory should become citizens of the United States.

So, Mr. President, there we are met with that proposition. These people were our wards and we made a very sorry mess of it in trying to take care of them. Well-intentioned good people have come here repeatedly and sought legislation that was perfectly hostile to the Indian and calculated to destroy him. With the best possible intention they insisted upon and secured such legislation. I said once here years ago that an association of as good people as there was in the country, calling themselves the Indian Association, had done more harm to the Indians than any other class of people I knew anything about. If you should entitle all the legislation that has been passed in twenty-five years by Congress "a bill to destroy the Indian," I think more than half of it would be accredited as an absolutely perfect description not of the purpose but of the effect.

The 24,000 Indians who are now in the Indian Territory are not competent to take care of their own affairs. A considerable number of those who are citizens but are not full blood are not capable, but there are thousands of men there who are capable of taking care of their affairs.

The Committee on Indian Affairs, since I have been a member of it, for about four years, has been anxious to relieve the class of men who were capable of taking care of their own affairs, and so at every session we have put in the bill, on such evidence as we could get, that so and so, naming them—sometimes they were white people, absolutely white, Indians by adoption, surely Indians by intermarriage—might sell their land. We put in a provision that the half bloods might sell, and occasionally we have allowed a full blood to sell when the evidence was positive that he could take care of himself, because there are exceptions. There are full bloods who can do that. You can not draw a line upon the blood. I have known magnificent Indians, Indians of great ability, men, I suppose, representing those Indians in the olden times like Red Jacket and Tecumseh and that class of Indians, who in their native state, without any education, could take care of themselves without any trouble. But they are the exception. All native wild people have an appetite for drink. Everybody knows that.

Mr. TILLMAN. And some civilized.

Mr. TELLER. And some civilized, the Senator says. Very few wild people have any idea of the accumulation of property. They live for to-day; to-morrow takes care of itself, so far as they are concerned, and they will not be prudent. It will take four or five generations, I suppose, to make them prudent. But if anybody will take the pains to go back to the Anglo-Saxon history he will find the same condition existed then. The Anglo-Saxon's lust for land, which you talk about, did not exist in the early history of the Anglo-Saxon race. If it existed at all, it only existed when they made a foray on some other country and wanted somebody else's land, which they held in common for generations, just as the Indian held his in this country.

I know it is heresy to say it, Mr. President, but I am one of those people who have believed for many years that if the doctrine prevailed that the land belonged to the man, and to him only, who occupied it and cultivated it—and that is the Indian law—we would be better off than we are to-day, save and except, perhaps, in our cities where conditions made it necessary in order that vast improvements could be made that there should be a title.

There is in the State of New York an Indian tribe that to-day owns its land in common. I will guarantee to show a well-built house, a well-built barn, a well-conducted farm held by a title that has been in the Indian family for three or four generations; and yet, if the occupant should move out of that house and abandon the barn and the farm, some other Indian would walk in and make just as good title to it as he had when he ceased to occupy it. He may transfer it if he chooses to some of his own people. He may sell any possession. He could make an arrangement that another man should take it and occupy it, but no man could hold it if he did not occupy it and make it useful. There are no broad acres that were not open to every Indian.

That is one of the troubles we have been dealing with down in the Indian Territory. When the white men were let in there, an Indian would take a white man and go out and lay off a piece of ground, 160 acres if he wanted it, or 500 acres if he wanted it, and he would say, "Now, you go and cultivate this land; pay me so much for it; I will give you authority to go on it." And the white man went on the land. One day I said to a distinguished Indian down there, a full-blooded Indian, a man really who would grace this body if he sat in it, "They tell me that you have 130 farms. Is not that more than your share?" He said, "I guess I have got about that number; it may be it is more than my share if the division should take place; but look at these broad acres out here. If any Indian wants land there it is; he has no business to complain because I have got this under cultivation." I declared that his logic was perfect; that I myself could not complain; that it was better the land should be cultivated even by a tenant; and these were white tenants, remember, that we and the Indians together had let in there.

Now, that is the way they hold the land. Take some of the freedmen regarding whom provision is made in this bill? The freedmen were entitled to 40 acres of this Indian land and their descendants were entitled to 40 acres. The bill cuts off their descendants.

Mr. President, you could find down there in the Indian Territory a freedman, a colored man, a former slave, with pieces of land cultivated in an excellent shape, in some sections as high as 300 or 400 acres. The freedmen had to give that up and take 40 acres for himself and his wife and children. The children born since that distribution, however, get nothing whatever. That is one of the things they are complaining of here. As stated, they took their lands, I think, six or eight years ago. I do not remember just when. These were not Indians. They were colored citizens of the United States. I repeat, and this is what makes the trouble with me to-day, these Indians down there who, as the Senator says, are not fit to be turned loose, and we must still continue our guardianship over them, are citizens of the United States. Some of them have been citizens for four or five years. I should like any constitutional lawyer to tell me where the authority comes to Congress to touch the property of a citizen of the United States. If he has taken his deed with a limitation, as the Senator says, there may be a doctrine of estoppel; he may be compelled to hold it until the restriction expires.

We were met with this question. We knew that the limitations were not long enough (everybody knows that who knows anything about it) if you mean to hold the land in the Indian possession. When they had become citizens of the United States, when they had taken their lands with a restriction in the deed, could we extend that limitation in the deed and say, "Your deed or patent says you shall hold this land without sale for five years; we add five years more to it?"

Some of the members of our committee would like to have done that. I voted for it last year in committee upon the theory that these men were the wards of the Government. I was ignorant when I first went on that committee that the Curtis Act had made citizens of these people. When it was stated to me then that they were citizens of the United States I said, "You can not increase that limitation or restriction;" and I defy anybody who knows any law at all to assert the contrary.

Now, there are 90,000 citizens of the United States there, and the trouble is they are without educational facilities. They are there as they never were even when they had their tribal relations and were running their council. They are worse off to-day. While nominally to-day the tribal relation exists, the question is presented, "How are you going to maintain a tribe of Indians when they are citizens of the United States?" It is a mere fiction that there is a tribe there. It has ceased actually. While in law it may be useful to hold that they are a tribe in order that the lands may not be taken from them and appropriated by a railroad company that claims a grant, yet when you come to deal with them, Mr. President, you are without the power.

We could do something for these Indians if we wanted. We could provide for schools or we could incorporate that section of the Indian Territory into a State, and it might be done in an hour, if we were not charged here with the encumbrance of attaching that new State to two Territories that do not want to be admitted, and there are many members of the Senate

who say they ought not to be admitted either as one State or as two.

If the Territory of Oklahoma had been off the bill, if it had passed through the House without that encumbrance and the Indian Territory had been provided for last year, it would have been a State now and all the appliances of a State could have been used for the education of the Indians and the white men who are in the Indian Territory, who are absolutely without educational facilities. There is a necessity that we would do something. There is a greater necessity that we should do something here.

The only way to settle this difficulty, in my judgment, is to make a State of Oklahoma and the Indian Territory. It is true that we have got to do it by a violation of all the treaties that we ever made with those Indians, but, Mr. President, treaties are not so sacred but that they may be undone after they cease to be of value. They have ceased to be of any value to the Indian now, and it is our duty, in my opinion, notwithstanding the obligation we took upon ourselves to see that these Indians should never be incorporated into a State, to declare that they shall be incorporated into a State, that they shall become citizens of that State, and that they shall have the benefits that will come from statehood.

If the Indian Territory can not be made into a State, then it will be incumbent upon us to provide some method of taking care alike of the Indian children and the white children there. I do not recognize any greater obligation on us to take care of the Indian children than of the white children in the Indian Territory. It is not a State. It belongs to the General Government. We can legislate for it. There are 700,000 white men there with families and no schools. I will venture to say that the chances are decidedly now that there will not be a State made of Oklahoma and the Indian Territory. There will not be unless the Senate shall recede from the action we took here when we declared that the admission of the two Territories as one State should not be a necessary part of the admission of Oklahoma and Indian Territory.

Mr. SPOONER. That comes from an omnibus bill.

Mr. TELLER. That comes, as the Senator from Wisconsin says, from an omnibus bill. Mr. President, I do not remember any other omnibus bill upon statehood since I have been in the Senate, and seven States have been admitted since I have been a member of this body.

I say that if Oklahoma had come here alone, there would not have been five votes against its admission as a State; and Oklahoma would have come here alone if it had not been believed by certain parties in a certain place that by the attachment of Arizona and New Mexico, in our desire to admit Oklahoma, they could force the admission of those two Territories as one State.

I perhaps have spoken with some warmth upon this subject, but the condition in the Indian Territory is absolutely disgraceful to this nation, and unless we are imbeciles we ought to take hold of it and put it to rights. It can be done now, in my opinion, in only one way. If we have made a mistake, as the Senator from Wisconsin has said we did—and I declare that I believe we did, Mr. President—it is too late to undo that. There is not any law and there is not any power under the Constitution to say to a man who is a citizen that he shall not be any longer a citizen. Whether fit or unfit for citizenship, citizenship lasts so long as he lives, unless he chooses to renounce it. He alone can deprive himself of the privileges and rid himself of the incumbrances which citizenship brings.

It is utterly impossible to so frame this bill that it will be fair to the Indians and fair to the white men in the Indian Territory. Somebody will be hurt; and it is not much worse to hurt 90,000 Indians than it is to hurt seven or eight hundred thousand white people down there, who are suffering as much, if not more, than the Indians.

Mr. President, so far as the sale of these coal lands is concerned, the money that comes from the sale will belong to the Indians. I myself was at first in favor of selling those lands; but after looking carefully into the matter, I made up my mind that we had better not sell them now, but wait for a time when better prices will be secured for them.

I do not know whether or not combinations have been made to secure those lands at a small price, but I do know that a great property like that can not be put upon the market in a few months or in a year and bring its full value. Those lands are, as the Senator from Wisconsin, sitting on the other side [Mr. SPOONER], has said, of immense value. They are the most valuable coal fields in the United States, with but few exceptions, and they are in a section of country where coal is needed, where there is now a market for it and will be for many years to come.

Now, Mr. President, if we have improvidently made citizens of the Indians, nevertheless we can not afford to cheat them out of that which belongs to them by their former relation to their tribes. We should keep a careful eye over them, which I believe the Supreme Court has indicated we may still do, by looking after and providing for these lands, even if their beneficiaries are citizens of the United States.

Mr. NEWLANDS. Mr. President, I wish to discuss this matter further, but if there is a disposition to adjourn, I will yield to a motion for adjournment, and postpone my remarks until to-morrow.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Massachusetts?

Mr. NEWLANDS. I do.

Mr. LODGE. I was merely going to move an executive session.

Mr. NEWLANDS. I yield for that purpose.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

Mr. HALE. Will the Senator withhold that motion for a moment, in order that I may make an inquiry?

Mr. LODGE. Certainly.

Mr. HALE. I inquire what is the status as to the conference report? Has it been withdrawn?

The VICE-PRESIDENT. Does the Chair understand the Senator from Minnesota to have withdrawn the conference report?

Mr. CLAPP. Mr. President, I had intended to do so, but the Senator from Colorado [Mr. PATTERSON] has raised a question regarding it, which he desires to bring up to-morrow, and so I will let the report lie on the table until then.

Mr. HALE. Do I understand it is the intention of the Senator from Minnesota to call up the conference report the first thing in the morning after the routine business?

Mr. CLAPP. Yes; I shall endeavor to do that.

EXECUTIVE SESSION.

Mr. LODGE. I now renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 16 minutes p. m.) the Senate adjourned until to-morrow, Thursday, March 29, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate March 28, 1906.

PROMOTIONS IN THE ARMY.

Cavalry Arm.

Second Lieut. George H. Baird, Eleventh Cavalry, to be first lieutenant from March 27, 1906, vice Kirkman, Eighth Cavalry, dismissed.

Artillery Corps.

Lieut. Col. Harry R. Anderson, Artillery Corps, to be colonel from March 26, 1906, vice Hills, retired from active service.

Maj. Montgomery M. Macomb, Artillery Corps, to be lieutenant-colonel from March 26, 1906, vice Anderson, promoted.

Infantry Arm.

Maj. Edward E. Hardin, Seventh Infantry, to be lieutenant-colonel from March 23, 1906, vice Cooke (L. W.), Twenty-sixth Infantry, appointed brigadier-general.

Capt. William H. Sage, Twenty-third Infantry, to be major from March 23, 1906, vice Hardin, Seventh Infantry, promoted.

First Lieut. Alfred Aloe, Twelfth Infantry, to be captain from January 24, 1906, vice Jackson, First Infantry, retired from active service.

First Lieut. Thomas J. Fealy, First Infantry, to be captain from February 17, 1906, vice Steedman, Eleventh Infantry, promoted.

First Lieut. Frank W. Rowell, Eleventh Infantry, to be captain from March 3, 1906, vice Cotter, Fifteenth Infantry, promoted.

First Lieut. Hugh A. Drum, Twenty-third Infantry, to be captain from March 23, 1906, vice Sage, Twenty-third Infantry, promoted.

First Lieut. John M. Campbell, Fifth Infantry, to be captain from March 24, 1906, vice Siviter, Twenty-eighth Infantry, deceased.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 28, 1906.

ASSOCIATE JUSTICE OF ARIZONA.

Fletcher M. Doan, of Arizona, to be associate justice of the supreme court of the Territory of Arizona.

POSTMASTERS.

CALIFORNIA.

David Robinson to be postmaster at Sebastopol, in the county of Sonoma and State of California.

IDAHO.

Marcellus J. Gray to be postmaster at St. Anthony, in the county of Fremont and State of Idaho.

ILLINOIS.

Ulysses S. G. Blakely to be postmaster at Plainfield, in the county of Will and State of Illinois.

Lenthold C. Brown to be postmaster at Wheaton, in the county of Dupage and State of Illinois.

William G. Dustin to be postmaster at Dwight, in the county of Livingston and State of Illinois.

Henry C. Claypool to be postmaster at Morris, in the county of Grundy and State of Illinois.

Peleg A. Coal to be postmaster at Gibson City, in the county of Ford and State of Illinois.

J. H. Firebaugh to be postmaster at Abingdon, in the county of Knox and State of Illinois.

John T. Gantz to be postmaster at Oregon, in the county of Ogle and State of Illinois.

William F. Hodson to be postmaster at Delavan, in the county of Tazewell and State of Illinois.

John R. Marshall, to be postmaster at Yorkville, in the county of Kendall and State of Illinois.

Henry Mayo to be postmaster at Ottawa, in the county of Lasalle and State of Illinois.

George R. Palmer to be postmaster at Onarga, in the county of Iroquois and State of Illinois.

Jessie Ranton to be postmaster at Sheldon, in the county of Iroquois and State of Illinois.

Frank Yeager to be postmaster at Lanark, in the county of Carroll and State of Illinois.

IOWA.

Charles J. Adams to be postmaster at Reinbeck, in the county of Grundy and State of Iowa.

KANSAS.

Michael Delaney to be postmaster at Waterville, in the county of Marshall and State of Kansas.

Arthur F. Dunbar to be postmaster at Wellsville, in the county of Franklin and State of Kansas.

Nathan B. Needham to be postmaster at Clifton, in the county of Washington and State of Kansas.

Frank C. Scott to be postmaster at Valley Falls, in the county of Jefferson and State of Kansas.

MICHIGAN.

Stephen R. Allen to be postmaster at Homer, in the county of Calhoun and State of Michigan.

John E. Crawford to be postmaster at Milford, in the county of Oakland and State of Michigan.

George W. Dennis to be postmaster at Leslie, in the county of Ingham and State of Michigan.

George E. Hilton to be postmaster at Fremont, in the county of Newaygo and State of Michigan.

MINNESOTA.

John Kolb to be postmaster at Melrose, in the county of Stearns and State of Minnesota.

Edward V. Moore to be postmaster at Eagle Bend, in the county of Todd and State of Minnesota.

Charles E. Ward to be postmaster at Ada, in the county of Norman and State of Minnesota.

MISSOURI.

Mordecai Bell to be postmaster at Golden City, in the county of Barton and State of Missouri.

Washington D. Turrentine to be postmaster at Marionville, in the county of Lawrence and State of Missouri.

NEBRASKA.

Walter H. Andrews to be postmaster at Lexington, in the county of Dawson and State of Nebraska.

John C. Mitchell to be postmaster at Alma, in the county of Harlan and State of Nebraska.

George M. Prentice to be postmaster at Fairfield, in the county of Clay and State of Nebraska.

C. A. South to be postmaster at Butte, in the county of Boyd and State of Nebraska.

NEW JERSEY.

Ogden H. Mattis to be postmaster at Riverton, in the county of Burlington and State of New Jersey.

NEW YORK.

William C. Froehley to be postmaster at Hamburg, in the county of Erie and State of New York.

Frank E. Holmes to be postmaster at New Berlin, in the county of Chenango and State of New York.

George C. Silsbee to be postmaster at Avoca, in the county of Steuben and State of New York.

Ralph S. Tompkins to be postmaster at Fishkill on the Hudson, in the county of Dutchess and State of New York.

NORTH DAKOTA.

Victor A. Corbett to be postmaster at Kenmare, in the county of Ward and State of North Dakota.

Richard Daeley to be postmaster at Devils Lake, in the county of Ramsey and State of North Dakota.

UTAH.

James P. Madsen to be postmaster at Manti, in the county of Sanpete and State of Utah.

WISCONSIN.

Stephen L. Perry to be postmaster at Marion, in the county of Waupaca and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March 28, 1906.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

HAZING AT THE NAVAL ACADEMY.

The SPEAKER laid before the House the bill (S. 3899) granting authority to the Secretary of the Navy, in his discretion, to dismiss midshipmen from the United States Naval Academy, and regulating the procedure and punishment in trials for hazing at said academy, with House amendments thereto disagreed to by the Senate.

Mr. VREELAND. Mr. Speaker, I move that the House insist on its amendments to this bill and agree to a conference.

The motion was agreed to; and the Speaker announced as conferees on the part of the House Mr. VREELAND, Mr. LOUD, and Mr. PADGETT.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. DALZELL. Mr. Speaker, I submit the following privileged report from the Committee on Rules.

The SPEAKER. The gentleman from Pennsylvania submits a report from the Committee on Rules, which the Clerk will read.

The Clerk read as follows:

The Committee on Rules, to whom was referred the resolution of the House No. 383, have had the same under consideration and respectfully report in lieu thereof the following:

Resolved, That hereafter, in consideration of the bill (H. R. 16472) making appropriations for the legislative, executive, and judicial expenses of the Government, and for other purposes, in Committee of the Whole House on the state of the Union, it shall be in order to consider, without intervention of a point of order, any section of the bill as reported, except section 8; and upon motion authorized by the Committee on Appropriations it shall be in order to insert in any part of the bill any provision reported as part of the bill and heretofore ruled out on a point of order.

Mr. DALZELL. Mr. Speaker, on that I ask the previous question.

Mr. SULZER. Mr. Speaker, I should like to have some explanation in regard to this rule. It seems to be a very extraordinary departure from the general rules of the House.

Mr. DALZELL. I do not wish to discuss the rule until after the previous question is ordered, because any debate before the ordering of the previous question would cut off all debate thereafter.

The SPEAKER. The gentleman from Pennsylvania moves the previous question upon agreeing to the resolution.

The question being taken, on a division (demanded by Mr. DALZELL) there were—ayes 120, noes 71.

Accordingly the previous question was ordered.

The SPEAKER. The gentleman from Pennsylvania is entitled to twenty minutes, and the gentleman from Mississippi [Mr. WILLIAMS] to twenty minutes.

Mr. DALZELL. Mr. Speaker, I shall occupy but a very brief time in explanation of the rule.

The House is familiar with the fact that in the consideration of the legislative appropriation bill in Committee of the Whole a great many paragraphs have been stricken out by reason of an

appeal to the rule of the House which prevents legislation on appropriation bills. The trouble has been mainly with respect to the number of employees provided for in the bill and with respect to the salaries of employees. The point of order has been made that employees not provided for by existing law are included in the bill and that salaries not provided for by existing law are included in the bill; and it is fair to say that it seems to me that in all cases the point of order has been well taken.

The difficulty with which the House is confronted arises out of the fact that the law fixing the number of employees and the salaries of employees in the various Departments is in most cases an old law, in some cases as old as thirty years, and, of course, during the passage of those thirty years the service of the Government has largely increased, the necessity for new employees has arisen, and the necessity for changes of salary has arisen. Those changes ought to have been made by general law. The fault lies not wholly with the Committee on Appropriations, but largely with the various committees of the House, who ought to have secured the passage of general laws which would authorize the Committee on Appropriations to insert these provisions in the appropriation bill. A custom, however, has grown up during all these years not to make points of order upon items in the appropriation bill which were recognized by the House as appropriate under the circumstances, and the custom therefore has justified the Committee on Appropriations from year to year in putting into the appropriation bill these increases of salary and these increases of appropriation. As I say, the fault lies with the committees of the House, who ought to have provided general legislation. In illustration of that proposition, let me call your attention to what appears on two pages of the RECORD. An appropriation in this bill for the employees at New Orleans went out on a point of order because it infringed a provision of existing law on the subject. That provision was over thirty years old; nevertheless, during all these thirty years since its enactment, without any additional legislation, appropriations corresponding to this have been made by the sufferance of the House.

Now, on the opposite page of the RECORD, you will find a like appropriation for employees at New York, but that did not go out on a point of order, because there appears on the statute book this provision:

> The assistant treasurer at New York may appoint from time to time, by and with the consent and approbation of the Secretary of the Treasury, such other clerks, messengers, and watchmen, in addition to those employed by him, as the exigencies of the business may require.

In other words, we ought to have, to avoid the confusion into which we have fallen in this case, such general legislation upon the statute books. It is apparent, however, that the House can not now stop, the business of the country can not be held up, because of the lack of this general legislation. The Government needs must be met, and therefore the only way in which the present needs of the Government can be met is by the adoption of this rule.

The rule provides that these items which have already gone out on points of order may be inserted at the will of the House. In other words, it submits to the House the right to say whether or not upon the merits the items shall go into the bill. The rule also provides that, as to the items not yet reached, they shall be passed upon on their merits irrespective of the technical rule; all except section 8, which relates to superannuated clerks, so called. Your committee felt that that was a piece of legislation that was entitled to be considered by the House as a separate proposition, and therefore that is excepted from the operation of the rule.

Mr. CURTIS. Under the rule that section would be subject to a point of order?

Mr. DALZELL. Yes.

Mr. CURTIS. I think that provision unfair to the clerks who have devoted many years to the service, many of whom were Union soldiers, and it should be stricken from the bill.

Mr. JONES of Washington. The rule does not make anything in order that may be offered to be inserted by a Member?

Mr. DALZELL. No; it does not make anything in order except what was reported by the Appropriations Committee and an amendment to it which would be germane.

Mr JONES of Washington Does not the gentleman think that the Members of the House ought to be allowed to offer amendments to be considered on their merits?

Mr. DALZELL. They will have that privilege.

Mr. JONES of Washington. If subject to a point of order, they would go out.

Mr. DALZELL. They would go out anyway.

Mr. MANN. Under this rule the amendment which the Committee on Appropriations offers—that is, to increase the salaries—is in order.

Mr. DALZELL. If it is in the bill.

Mr. MANN. Whether it is in the bill or not, if the committee reports it it is in order.

Mr. DALZELL. Only as reported in the bill.

Mr. MANN. In that case, then, the amendments offered by any Member of the House to increase that amount would necessarily be in order.

Mr. DALZELL. But subject to a legitimate point of order, of course.

Mr. MANN. If the proposition offered by the Committee on Appropriations is in order, an amendment to that proposition is also in order.

Mr. DALZELL. I should say so.

Mr. NORRIS. I would like to ask the gentleman from Pennsylvania if the Committee on Appropriations puts in the bill an appropriation for a salary, for instance, greater than that allowed by existing law, it would not be subject to a point of order; but if a Member on the floor of the House offers an amendment that increases the salary in the bill greater than that allowed by existing law, that would be subject to a point of order?

Mr. DALZELL. Not if the amendment was to a paragraph in the bill that under the rule was not subject to a point of order.

Mr. NORRIS. So that the gentleman may understand my proposition, suppose it makes an appropriation for a salary that is in exact accordance with existing law, and a Member on the floor of the House offers an amendment to increase it beyond that limit, would that be in order?

Mr. DALZELL. I should think not; I should think it would be subject to a point of order. If the committee's proposition was in accordance with the law, and the amendment not in accordance with the law, I should think it would be subject to a point of order.

Mr. NORRIS. In other words, the committee can propose amendments that go beyond existing law, but Members of the House can not. This privilege exists only in favor of the committee. In other words, it is a rule that does not work both ways.

Mr. DALZELL. Not at all. It is a rule that allows the bill as reported by the Committee on Appropriations to be considered without being subject to points of order, except as to section 8. That is all it is.

Mr. WM. ALDEN SMITH. It is to be considered on its merits.

Mr. DALZELL. In other words, it submits to the House the bill as reported by the Committee on Appropriations on its merits. The committee may vote on each proposition without respect to points of order upon the merits of the proposition.

Mr. BROOKS of Colorado. Mr. Speaker, to be more specific on the question asked by the gentleman from Nebraska [Mr. NORRIS], then if the committee has reported an item which is entirely legal, or an amendment, and the House by amendment attempts to change that in any way, that proposition is open to a point of order.

Mr. DALZELL. Not unless it is against the law.

Mr. BROOKS of Colorado. In any way, so that it transgresses the rules.

Mr. DALZELL. For instance, if there is an amount named in the bill, that is subject to amendment.

Mr. BROOKS of Colorado. One further question. Then if the committee has reported an item which if objected to would go out on a point of order, that item may be further amended also in the direction that would have been, without the rule, open to a point of order.

Mr. DALZELL. I think so; yes.

Mr. FITZGERALD. Mr. Speaker, will the gentleman yield to a question?

Mr. DALZELL. Yes.

Mr. FITZGERALD. Did the Committee on Rules proceed upon the theory that the Committee on Appropriations was unanimously in favor of having considered in this way all of the legislative provisions excepting section 8?

Mr. DALZELL. I do not understand the gentleman's question.

Mr. FITZGERALD. Did the Committee on Rules proceed upon the assumption that the Committee on Appropriations was unanimous in desiring to have all of the legislative provisions considered in this way excepting section 8?

Mr. DALZELL. Why, we did not think anything about what the Committee on Appropriations wanted especially.

Mr. FITZGERALD. I think the gentleman did, because his rule provides that all the things reported in the bill by the

Committee on Appropriations shall be considered regardless of the rules, excepting section 8. Now, there are several other distinctively legislative provisions in the bill not excepted by the rule, but to which there was objection in the committee, about which notice was given that points of order would be interposed and which this rule takes out of the operation of the rules of the House. I would ask the gentleman to explain why the Committee on Rules singled out one legislative provision and not other legislative provisions equally offensive?

Mr. DALZELL. Because we thought that that one legislative provision was so radical in its character, so much more radical than any of the others, that it ought to have separate consideration in the ordinary way.

Mr. Speaker, I reserve the balance of my time. How much more time have I?

Mr. BARTLETT. Mr. Speaker, I would like to ask the gentleman a question.

The SPEAKER. The gentleman has seven minutes remaining.

Mr. DALZELL. Then, Mr. Speaker, I reserve the balance of my time. I can not yield any more.

Mr. WILLIAMS. Mr. Speaker, the object of this rule is to make points of order which are not in order under the rules of the House out of order under this rule. It is an apt illustration and object lesson, indeed, of the defectiveness of the rules of the House. I shall not consume the time of the committee by arguing that question. Others want to be heard, and I shall yield to them. I now yield five minutes to the gentleman from Illinois [Mr. PRINCE].

Mr. BARTLETT. Mr. Speaker, may I ask the gentleman from Mississippi a question before he sits down?

Mr. WILLIAMS. Mr. Speaker, I do not want to consume any time if I can help it. I desire to yield to others.

The SPEAKER. The gentleman from Illinois is recognized for five minutes.

Mr. PRINCE. Mr. Speaker, the whole trouble that the House is now in is due to paragraph 2 of Rule XXI of the House of Representatives, which is as follows:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

The honorable gentleman from Pennsylvania [Mr. DALZELL], who has just taken his seat, says the points of order have been well taken. So much for the obstructionists. The points of order have been well taken. Now, what does the chairman of the committee say? On page 4281 of the CONGRESSIONAL RECORD of March 23, 1906, Mr. TAWNEY says:

> If this rule is to be enforced, then more than one-half of the provisions of this bill will have to go out.

Properly taken! More than one-half of it is to go out! What is the rule? "No appropriation shall be reported"—confessedly in order are these supposed obstructionists. "The points of order are well taken," says the gentleman from Pennsylvania. The chairman of the committee says that half of it will go out. Why did he knowingly, willfully, deliberately, and flagrantly violate the rules of this House to bring in a bill of which he himself says one-half would go out on points of order if they were made? Now, then, let us turn to the effect of the rule. Here is a rule that applies to one Committee on Appropriations. How many appropriation bills are there, gentlemen of the House?

Look at your Calendar of date March 26, 1906, and you find the following: Urgent deficiency; pensions; fortifications; Army; Indian; legislative, executive, and judicial; Post-Office; agricultural; diplomatic and consular; District of Columbia; general deficiency; Military Academy; naval; public buildings; rivers and harbors, and sundry civil appropriation bills—sixteen appropriation bills in this House. If this provision is good for one committee, why is it not good for every committee that passes appropriation bills in this House? [Applause.] Will you tell me? I say now, and wait for answer, if the Committee on Rules will make this special a general rule that will apply to every appropriation committee of this House I will vote for the rule now. Will you do it? What answer have you to make to these other committees that you single out one as against ten others?

What is your reply for doing it when you confessedly admit your bill is out of order, when you confessedly admit every point of order that has been made against the bill is in order and under the rules of this House? Now, who have passed upon the objections? Two honorable Members of this House, none higher in the estimation of this body than those two, sitting day in and day out in the chair as Chairman of the Committee of the Whole House on the state of the Union. The honorable gentleman from Pennsylvania [Mr. OLMSTED] held time after time that practically every one of those points of order are in order, and the provisions had to go out. They changed horses for a few minutes, and the distinguished Member from New York [Mr. PAYNE] took the chair, and he held likewise upon these very same provisions. Where is the obstruction? Now, gentlemen of the House, let me say this to you, that we all are here as Members. You have heard me ask the Committee on Rules if they will make this rule a general rule to apply to your committees on which you are serving and the committees on which I am serving. They have not said they would do it. What will you say to your constituents? Will you vote for a special rule which allows the increases of salaries, changes existing law, and enacts new and original legislation? What will you say to the committees of which you are members, over which have presided for more than a hundred years some of the most distinguished men who have sat in this body——

The SPEAKER. The time of the gentleman has expired.

Mr. PRINCE. I ask leave to extend my remarks if I so desire.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. WILLIAMS. Mr. Chairman, I now yield five minutes to the gentleman from Missouri [Mr. DE ARMOND].

Mr. DE ARMOND. Mr. Speaker, I am one of those who are not opposed to suitable legislation upon an appropriation bill. I am opposed, however, to this way of getting at that legislation. It would be very easy, as matters now stand, to have every item in this appropriation bill considered by the committee and by the House. Of course, when the point of order is made it is the duty of the presiding officer to rule upon that point of order, under the rules. A point of order against new legislation on a bill like this is a good point, and, under the rules, the presiding officer has to sustain it. Now, when the point of order is sustained, if there be real occasion for the legislation proposed, what is the reason that the chairman of the subcommittee on appropriations, or the chairman of the Committee on Appropriations, or any other gentleman favoring the proposed legislation, should not frankly admit that the proposition is obnoxious to the rules, but that, owing to its merits, owing to the necessity for legislation at the time and of the kind proposed, the rule as to that item ought to be set aside and the particular matter proposed ought to be enacted into law? Upon that proposition, with a majority of those present sustaining it, the item would remain in or go into the bill. Now, that is a very much safer and a very much better way of proceeding than by a wholesale rule, an omnibus rule. While undoubtedly there are good provisions offered in this bill which are not in accord with existing law, it probably is not saying too much to say that there are also bad provisions offered, also not in accordance with existing law. In the case of a good provision, a necessary provision, upon appeal to the House it is reasonable to believe that the House would sustain the appeal, and would enact the good provision—would put it into the bill or retain it in the bill.

Every provision offered in the way of new law, everything obnoxious to the rules of the House, is protected and covered by this rule; everything suggested by the Committee on Appropriations and incorporated in the bill, including those items that were opposed and knocked out—all are legitimized. Provisions already eliminated are to be brought forward, and no point of order shall be tolerated against any of them or against anything in the bill except section 8, when, no matter how meritorious a proposition offered from the floor may be, the rules may be invoked against it; and if it be a change of existing law, or a proposed change of existing law, it must be denied consideration.

This rule is neither in the interest of good legislation, nor is it fair. Allow the rules to stand, if you will; you made them, made them without consideration, without giving opportunity for any particular consideration. When you see proper to set aside one of them, or any order of this House with reference to any particular piece of legislation, appeal direct to the judgment of the House, and if the judgment of the House sustains you the rules will be waived for the time being, and the meritorious piece of legislation will be incorporated in the bill; and let that apply not only to the Committee on Appropriations—that one committee to be singled out for favor over all other committees—but let it apply to all the other committees, and let it apply also to the entire membership of the House. Whenever a proposition is offered from anywhere and ruled out as new legislation, if the proponent of it, or anybody else, sees proper to ask the judgment of the House upon this proposition, and

if the majority see proper to incorporate it, let the rules be then and there set aside as to that matter, and let it be incorporated. There is neither necessity for nor propriety in this rule; it is dangerous in its tendency, and will be bad in its effect. [Loud applause on the Democratic side.]

Mr. WILLIAMS. I will ask the gentleman from Pennsylvania to consume some of his time.

Mr. DALZELL. I propose to close on this side.

The SPEAKER. The gentleman from Pennsylvania has seven minutes and the gentleman from Mississippi ten minutes.

Mr. WILLIAMS. I yield five minutes to the gentleman from Georgia [Mr. HARDWICK].

Mr. HARDWICK. Mr. Speaker, it is perfectly apparent that one of two things is true. Either the bill is wrong or the rule is wrong. If the rule is wrong, this bill ought to pass, and the rule ought to be repealed; and if the rule is wrong, then the rule ought to be repealed, so that any bill can pass.

I do not think, Mr. Speaker, that there has ever been in the legislative history of the country such a measure proposed as that contained in this rule. I want to make the statement here in my place that never before in the history of the American Congress has such a proposition been made to any House of Representatives as that contained in this rule. There are two or three precedents in which the Committee on Rules have taken some one single proposition and passed a rule to make a matter in order when a point of order would lie against it and had been urged against it. In the second session of the Fifty-second Congress such a provision was made by the Committee on Rules on one single proposition, namely, the creation of a commission to investigate the various Executive Departments of the Government. In the second session of the Fifty-eighth Congress we had another rule from the committee, authorizing the committee to consider an increase in the salary of the rural carriers, and we had the same proposition at the second session of the Fifty-seventh Congress on a bill providing for the levying of a personal tax in the District of Columbia. Each one of these propositions was segregated and distinct, and the House of Representatives understood what it was voting for. Now, in this proposition, by this omnibus rule, we are offered what? To make everything in order, involving forty-seven separate paragraphs, involving a general increase of appropriations; thirty-eight separate paragraphs, involving different amounts of increase of salary; in other words, in my humble judgment—and I have investigated it to some extent—you are proposing by this rule to legalize about seven hundred things that would not be legal if this rule did not pass.

No member of the Committee on Rules and no Member of this House who votes for this rule will know what on earth he is voting for. Now, if we are going to let the Committee on Appropriations have certain special rights to pass any legislation as riders on appropriation bills—new legislation—let us have the same rights for everybody. Why should we not? I want to call the attention of the House to the fact that during the progress of the consideration of the pending bill, the gentleman from Mississippi [Mr. HUMPHREYS] arose and asked that the House be allowed to vote on a simple proposition, viz, that the internal-revenue offices of the Government should be required to furnish certified copies of their records to any court, State or Federal, to be used as evidence, as to what licenses had been taken out for the sale of liquor. That proposition had been recommended by the unanimous vote of just as strong a committee as the Appropriations Committee, to wit, the Ways and Means Committee; and yet the gentleman from New York [Mr. LITTAUER], in charge of this bill, made the point of order against that and insisted upon it. Now, I say this is not fair. There are good reasons why riders putting new legislation on appropriation bills ought not to be allowed. Under the rules of the House 100 Members constitute a quorum in Committee of the Whole, and fifty-one Members may, if this sort of thing be kept up, enact all sorts of legislation. Indeed, I have seen thirty-six members of the Committee of the Whole decide a question, less even than a quorum of the committee. But even if the rules as to a quorum are invoked, fifty-one Members—less than one-seventh of the membership of the House—can decide a question in committee. There are good reasons back of Rule XXI and it ought to be enforced. I understand the Senate has no such rule, and it may be that when these propositions are meritorious they will be restored in the Senate. With that I am not concerned; but I say that our general rule is a good one and it ought to be enforced, and that it ought not to be varied simply because certain gentlemen want to pass legislation to suit themselves, or because a certain committee wants to do about seven hundred things that the law will not allow them to do, in their own way. [Applause.]

Mr. WILLIAMS. Mr. Speaker, I now yield three minutes to the gentleman from New York [Mr. DRISCOLL.]

Mr. DRISCOLL. Mr. Speaker, this is a very extraordinary method of attempting to pass a very ordinary bill. A measure similar to this, making appropriations for the legislative, executive, and judicial expenses of the Government, is passed every year without any unusual friction and without appealing to the Committee on Rules for assistance. This bill was debated during several days, and when the reading was commenced under the five-minute rule the Committee on Appropriations found itself in trouble. Subdivision 2 of Rule XXI of the Rules of the House of Representatives is as follows:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

A few Members of this House on both sides of the Chamber examined the bill with considerable care and they found that this rule of the House was violated in almost every section; that many appropriations of small and large amounts were reported in the bill which were not previously authorized by law, and that there were in it several provisions changing existing law. These were all obnoxious to the rule and liable to be stricken out on points of order. The gentlemen who examined the statutes and this bill commenced to raise these points of order against increases of salaries and clerks and other provisions increasing expenditure, and also against the new provisions changing existing law. In my judgment, those gentlemen who have given much time and attention to this matter and have sat here day after day insisting that the rule be observed have been rendering a signal service, not only to the other Members of this House, but to the country. For their courage or temerity, if we may so describe it, they are entitled to great credit, because there is altogether too much of "you tickle me and I'll tickle you" in this appropriation business. That is why the expenditures increase from year to year, and it is practically impossible to keep them down. Not every Member, especially if there is in the appropriation bill some benefit for his district or constituents, wishes to object to any other appropriation, no matter how extravagant or unreasonable. Therefore these gentlemen are entitled to the thanks of the country for their courageous and unselfish action in behalf of the Treasury.

After a few objections of this character were made the distinguished chairman of the Appropriations Committee, in an able and vigorous speech, undertook to criticise and censure those gentlemen for objecting, and attempted to arouse public sentiment in the House against them. In this he failed, for they continued to raise points of order, which were sustained by the Chair. The gentleman from New York, who has charge of this bill, undertook to lash one of the objectors—the gentleman from Illinois [Mr. PRINCE]—into silence by twitting him about a little crumb of patronage in the form of a janitorship. This did not avail, and later on another member of the Appropriations Committee took the floor, raised the white flag of truce, and, in a most conciliatory address, sued for peace; and that failed to accomplish the object desired. Now, these gentlemen throw up their hands and surrender at discretion, and acknowledge that they can not pass an ordinary appropriations bill under the ordinary rule which has obtained for many years, and have applied to the all-powerful Committee on Rules for a special rule or resolution giving them extraordinary powers and privileges. Why? Is it claimed that the Chairman of the Committee of the Whole House who presides during the consideration of this bill is unfair or partial? He has had before him the book of rules, and has ably and honestly applied them to each point of order raised; and a gentleman stands at his elbow who writes and revises the book, and who the Speaker said could give any man on the floor of the House cards and spades and beat him in parliamentary law. Now, what is the trouble? The gentlemen in charge of this bill do not assert that they have not received fair treatment in the consideration and application of the rule, and admit that a very large part of this appropriation bill will have to be stricken out if the rule be insisted on. The conclusion is forced on every Member of this House that the rule is a very bad one, or the bill is a very bad one. If the rule is insufficient and antiquated, let it be amended or repealed. If the rule is a good one, let it be applied. If the bill is an extravagant one, let it be trimmed down to come within the limitations of the law.

That is the best way to determine whether it is a good or bad measure. And the best way to determine whether a rule or law is good or bad is by its enforcement. Let the law be

applied. Let the rule be enforced. Let the balance of this bill be read, and let the gentlemen who are raising points of order continue to do so and hew to the line and let the chips fall where they may. When it is concluded the country at large will be informed how much of this bill is in violation of law, how much of it represents extravagance, and how much of it is padded, and the Members of this body will be enlightened as to the wisdom of maintaining the rule.

In ordinary proceedings in this House this rule is invoked more perhaps than any other, and we have from time to time been told that for the proper discharge of business and for the sake of economy and wise legislation, it is necessary and should be maintained in its full force and vigor. If any Member of the House suggested to the Appropriations Committee that the number of clerks in a bureau be increased or the salary of any employee be advanced, and it did not suit them, he was told very politely that it was unauthorized by existing law and would be stricken out on a point of order, and he subsided gracefully in deference to the rule. These gentlemen, who have disposed of so many applications by invoking the rule, should be the last to seek relief from the force of its application. They should be willing to take their own medicine.

There are perhaps fifteen other committees of this House who bring in appropriation bills and are expected to have them enacted into law. Why should this rule be suspended as to this committee and this appropriation bill and enforced as to all others? If a good rule, why should it not be enforced as to all? If a bad rule, why should it not be suspended as to all?

There are 386 Members of this House, and only 17 of them are on the Appropriations Committee. Under this special resolution or rule sought to be adopted here no further points of order can be raised. No objections can be made no matter how many appropriations there are in it which are unauthorized by existing law. Thus the Appropriations Committee will be permitted to submit to the consideration of the House all amendments they have inserted in the bill which will increase salaries and employees, while if any other Member offers an amendment for the same purpose it will be ruled out on a point of order. If you insist on suspending this rule in its application to the Appropriations Committee, why not suspend it in its application to all the Members and let each of them have the same privilege of offering amendments whether within the provisions of existing law or not? Why should not each Member have the privilege and opportunity of offering an amendment and having it considered on the merits without being ruled out on a point of order, which privilege and opportunity will be accorded the Appropriations Committee under this proposed resolution? The ordinary Member of the House is sufficiently hampered and circumscribed already. Many of you have been complaining and wincing under the application of the rules in force. If you adopt this resolution, you will surrender one of the prerogatives vouchsafed you. You will tie yourselves hand and foot and deliver yourselves bound and gagged into the power of the Appropriations Committee. So far as practical results go, you may as well go home and send so many wooden Indians in your places. [Applause.]

This proposed legislation should not be adopted. We should stand by the rule in force, which seems to have served its purpose pretty well in the past and avoided much unnecessary extravagance. This seems to be a "stand-pat" Congress. Only yesterday the distinguished gentleman from New York, chairman of the Committee on Ways and Means, in a very able and eloquent address, notified the Members of this House and the whole country that there will be no revision of the tariff schedules; that this House will stand pat. For the sake of consistency, for the sake of economy in the public service, and for the protection of our own rights and dignity as individual Members of this body let us "stand pat" on the existing rule and reject this resolution.

The SPEAKER. The time of the gentleman has expired.

Mr. WILLIAMS. I yield the two remaining minutes to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, while I have no sympathy with the action of the gentlemen who have been taking matters out of the legislative bill without regard to their merits, yet I do not favor this rule. It is more sweeping in its character than I have been able to find in a search of the precedents. It makes it possible to keep in this bill indefensible increases of salary for favorites of some men in this House, while those who are without influence are ignored entirely. The committee, indeed, might be said to have been tyrannical in reporting this bill, because, in defiance of the rules, points of order submitted in committee were ignored, although the rules of the House are binding there, and matters that should not be in the bill are in it and are going to be continued in it under this rule. There are other legislative provisions equally indefensible, equally offensive, equally as important for separate consideration as section 8; and yet the Committee on Rules, without knowing what is in the bill, includes the good with the bad and compels the House to consider on this bill provisions with which few of the Members are familiar.

If this rule was framed so that these matters of importance—the matters that had real merit—would be considered in this way, I would gladly support this rule, but unless this rule is so framed that other committees with appropriating powers are permitted to report legislation and have it considered, the exception should not be made in this case.

This rule—Rule XXI, under which the points of order have been made—is of great importance and value, having originated in 1837, or else it is absolutely worthless. If it is worthless, it should be modified to meet the changed conditions. In my judgment, the action of these two gentlemen, of which complaint is made, while it has done great harm in some instances, yet they have effected considerable good in the position they have taken during the past few days. It would be an extraordinary thing to permit the Committee on Appropriations, of which I happen to be a member, to say that increases of salaries for certain persons should be considered in order on the legislative bill while increases for other men who have no friends could not be considered. [Applause.]

Mr. DALZELL. Mr. Speaker, I now yield the balance of my time to the gentleman from Ohio [Mr. GROSVENOR].

Mr. GROSVENOR. Mr. Speaker, the rule of the House which has been so often invoked by the gentleman from Georgia [Mr. HARDWICK] and the gentleman from Illinois [Mr. PRINCE] is an old and time-honored rule of the House. It was not made by a Republican House; it originated in a Democratic House. I found it in active operation when I came here twenty years ago, and it has been pretty effectually enforced ever since. On the present occasion I wish first to state, so that the Members of the House will not be misled, that the proposed rule operates upon provisions subject to a point of order made against them in the pending bill in this way: In the first place, it leaves exactly where we find it all that part of the bill which relates to aged or superannuated clerks that has gone out of the bill, and it is not proposed to put it back into the bill by the operation of this rule.

Mr. KEIFER. That provision has not yet gone out.

Mr. GROSVENOR. It has gone out under the rules as effectually as if it had never been put in. The various rulings of the Chair have that effect. Now, what next? The next operation is to make it in order that the other provisions of the bill, to which exceptions have been taken and which have been sustained by the Chairman, will still be in order, but subject to the action of the House upon each one of these provisions separately. So that a majority of the Committee of the Whole House can either adopt one of these provisions, or amend one of these provisions, or reject it altogether. It simply affords the House the full opportunity to pass upon every one of these objectionable provisions.

Mr. Speaker, the Committee on Appropriations, after very careful study, apparently—and I think I may safely say so—have brought here a provision that looks to me, and, I think, looks to gentlemen even on the other side, as a proposition of great improvement, as it will completely reorganize certain of the clerical forces of the various Departments here. It is true it comes here without the sanction of the rule of the House. The gentleman from Illinois [Mr. PRINCE] seems to take it for granted that to bring a bill into the House with a paragraph or section in it obnoxious to the rule of the House is a sort of parliamentary crime, a crime for which the Committee on Appropriations ought to be indicted. Why, I have never known of an appropriation bill of any considerable length that did not have some provision in it that was held by the Chairman to be obnoxious to the rule that has been invoked here against provisions of the pending bill.

Mr. Speaker, here is what we have got to meet: We must abandon our proposition of reform and improvement and send a bill to the Senate that would be disgraceful to the House of Representatives—a bill that does not and would not provide for any considerable completeness in the appropriations—or else, having ascertained what ought to be done, we temporarily set aside this rule for the purpose of doing exactly what the House of Representatives will decide ought to be done. It is not a revolutionary proposition; it is a propostion looking to the action of the House itself, an action which they may just as well take in this form as to take it in some other form. How can you get this proposition before the House anywhere else during this session of Congress than in an appropriation bill and in this appropriation bill?

There is a large number of appropriations for salaries of clerks employed in the various bureaus of the Government that have gone out of the bill under the ruling of the Chair, which was a proper ruling and had to be made. Now, shall we stumble about here and act unwisely an inconsiderately, or shall we take up these amendments one by one and act wisely and judiciously and in keeping with a rule of the House that is higher than a written rule in the books? Gentlemen seem to think that this action in the House is in some way or other revolutionary. It is just as exactly and as completely in order and just as proper as it would be to create a new rule. Gentlemen say, "Send the rule back to the Committee on Rules and let them make a new rule." That is no more in consonance with good judgment and wise legislation than will be the correction of the difficulty by this action, this temporary action, upon this particular appropriation bill. Mr. Speaker, this is the shortest and best way to give to the House a fair opportunity to be heard upon every one of these propositions and to act intelligently and wisely. Therefore I think that gentlemen who have delayed this bill all these days ought not now to appeal to the House to destroy the bill and compel it to go back to the Committee on Appropriations to have a new investigation and a new bill. [Applause.]

The SPEAKER. The question is on agreeing to the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WILLIAMS. Mr. Speaker, I demand a division.

Mr. SULZER. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 169, nays 109, answered "present" 12, not voting 92, as follows:

YEAS—169.

Adams, Pa.	Dickson, Ill.	Keifer	Powers
Adams, Wis.	Dixon, Mont.	Kennedy, Ohio	Pujo
Alexander	Dovener	Ketcham	Ransdell, La.
Allen, Me.	Draper	Kinkaid	Reeder
Andrus	Dresser	Klepper	Reynolds
Barchfeld	Dwight	Knapp	Rhodes
Bartholdt	Edwards	Knopf	Rives
Bates	Ellis	Lacey	Robertson, La.
Beidler	Esch	Lafean	Rodenberg
Bennet, N. Y.	Fassett	Landis, Chas. B.	Samuel
Bingham	Fletcher	Le Fevre	Scott
Birdsall	Foster, Ind.	Lilley, Pa.	Scroggy
Blackburn	Foster, Vt.	Littauer	Shartel
Bonynge	Fowler	Longworth	Sibley
Boutell	French	Lorimer	Slemp
Bradley	Fulkerson	Loud	Smith, Cal.
Brick	Gaines, W. Va.	Loudenslager	Smith, Iowa
Broussard	Gardner, Mass.	McCreary, Pa.	Smith, Wm. Alden
Brown	Gardner, Mich.	McGavin	Smith, Pa.
Brownlow	Gardner, N. J.	McKinlay, Cal.	Southard
Buckman	Gillett, Cal.	McKinney	Sperry
Burke, S. Dak.	Gillett, Mass.	McLachlan	Stafford
Burleigh	Goebel	Madden	Steenerson
Burton, Del.	Graff	Mahon	Sterling
Butler, Pa.	Graham	Marshall	Sulloway
Calder	Greene	Martin	Tawney
Campbell, Kans.	Grosvenor	Michalek	Taylor, Ohio
Capron	Hale	Miller	Thomas, Ohio
Chaney	Hamilton	Moon, Pa.	Townsend
Chapman	Haskins	Morrell	Tyndall
Cocks	Henry, Conn.	Mouser	Van Winkle
Cole	Hepburn	Needham	Volstead
Conner	Hermann	Nevin	Vreeland
Cousins	Hill, Conn.	Norris	Waldo
Crumpacker	Hinshaw	Olcott	Watkins
Currier	Hoar	Olmsted	Welborn
Curtis	Hogg	Otjen	Wharton
Cushman	Howell, N. J.	Overstreet	Wilson
Dalzell	Howell, Utah	Palmer	Wood, N. J.
Darragh	Hubbard	Parker	Woodyard
Davey, La.	Huff	Payne	
Davis, Minn.	Hughes	Pearre	
Dawson	Jones, Wash.	Perkins	

NAYS—109.

Ames	Floyd	Johnson	Murphy
Bartlett	Gaines, Tenn.	Kahn	Page
Beall, Tex.	Garner	Keliher	Patterson, N. C.
Bede	Garrett	Kennedy, Nebr.	Patterson, S. C.
Bell, Ga.	Gilbert, Ky.	Kitchin, Claude	Pou
Bowers	Gill	Kitchin, Wm. W.	Prince
Brantley	Gillespie	Knowland	Rainey
Broocks, Tex.	Glass	Lamb	Randell, Tex.
Burgess	Goulden	Lawrence	Reid
Burleson	Granger	Lee	Rhinock
Burnett	Gregg	Lester	Richardson, Ala.
Burton, Ohio	Griggs	Lever	Rixey
Byrd	Gudger	Lindsay	Roberts
Candler	Hardwick	Livingston	Rucker
Clark, Mo.	Hay	Lloyd	Russell
Cockran	Hayes	McLain	Ryan
Cooper, Wis.	Henry, Tex.	McMorran	Shackleford
Davis, W. Va.	Higgins	McNary	Sheppard
De Armond	Hill, Miss.	Macon	Sims
Driscoll	Hopkins	Maynard	Slayden
Field	Houston	Mondell	Smith, Ky.
Finley	Humphrey, Wash.	Moon, Tenn.	Smith, Tex.
Fitzgerald	Humphreys, Miss.	Moore	Sparkman
Flack	Hunt	Murdock	Spight
Stephens, Tex.	Thomas, N. C.	Wallace	Young
Sullivan, Mass.	Tirrell	Wiley, Ala.	
Sulzer	Towne	Williams	
Taylor, Ala.	Underwood	Wood, Mo.	

ANSWERED "PRESENT"—12.

Adamson	Cassel	Mann	Richardson, Ky.
Bishop	Dixon, Ind.	Meyer	Southwick
Bowie	Kline	Padgett	Watson

NOT VOTING—92.

Acheson	Dunwell	Law	Smith, Ill.
Aiken	Ellerbe	Legare	Smith, Md.
Allen, N. J.	Flood	Lewis	Smith, Samuel W.
Babcock	Fordney	Lilley, Conn.	Smyser
Bankhead	Foss	Little	Snapp
Bannon	Fuller	Littlefield	Southall
Bennett, Ky.	Garber	Lovering	Stanley
Bowersock	Gilbert, Ind.	McCall	Stevens, Minn.
Brooks, Colo.	Goldfogle	McCarthy	Sullivan, N. Y.
Brundidge	Gronna	McCleary, Minn.	Talbott
Burke, Pa.	Haugen	McDermott	Trimble
Butler, Tenn.	Hearst	McKinley, Ill.	Van Duzer
Calderhead	Hedge	Minor	Wachter
Campbell, Ohio	Heflin	Mudd	Wadsworth
Clark, Fla.	Hitt	Parsons	Wanger
Clayton	Holliday	Patterson, Tenn.	Webb
Cooper, Pa.	Howard	Pollard	Webber
Cromer	Hull	Robinson, Ark.	Weeks
Dale	James	Ruppert	Weems
Davidson	Jenkins	Schneebeli	Weisse
Dawes	Jones, Va.	Sherley	Wiley, N. J.
Deemer	Lamar	Sherman	Williamson
Denby	Landis, Frederick	Small	Zenor

So the resolution was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. WANGER with Mr. ADAMSON.

Mr. SHERMAN with Mr. RUPPERT.

Until further notice:

Mr. FULLER with Mr. WEISSE.

Mr. POLLARD with Mr. PADGETT.

Mr. MANN with Mr. HOWARD.

Mr. BENNETT of Kentucky with Mr. RICHARDSON of Kentucky.

Mr. DALE with Mr. BOWIE.

Mr. CROMER with Mr. ZENOR.

Mr. WEBBER with Mr. VAN DUZER.

Mr. HEDGE with Mr. LEGARE.

Mr. FOSS with Mr. MEYER.

Mr. HOLLIDAY with Mr. BUTLER of Tennessee.

Mr. WADSWORTH with Mr. BANKHEAD.

Mr. FREDERICK LANDIS with Mr. DIXON of Indiana.

Mr. CAMPBELL of Ohio with Mr. SOUTHALL.

Mr. HITT with Mr. LITTLE.

Mr. SOUTHWICK with Mr. WEBB.

Mr. WATSON with Mr. SHERLEY.

Mr. DAWES with Mr. GARBER.

Mr. MUDD with Mr. TALBOTT.

Mr. HOLLIDAY with Mr. HEFLIN.

Mr. SMYSER with Mr. MCDERMOTT.

Mr. LOVERING with Mr. BRUNDIDGE.

Until April 6:

Mr. DEEMER with Mr. KLINE.

For this day:

Mr. BANNON with Mr. LEWIS.

Mr. SNAPP with Mr. SMALL.

Mr. WACHTER with Mr. STANLEY.

Mr. BABCOCK with Mr. AIKEN.

Mr. CALDERHEAD with Mr. ELLERBE.

Mr. SAMUEL W. SMITH with Mr. ROBINSON of Arkansas.

Mr. PARSONS with Mr. LAMAR.

Mr. LAW with Mr. JAMES.

Mr. JENKINS with Mr. HEARST.

Mr. DUNWELL with Mr. GOLDFOGLE.

Mr. COOPER of Pennsylvania with Mr. SMITH of Maryland.

Mr. SCHNEEBELI with Mr. JONES of Virginia.

Mr. DIXON of Montana with Mr. FLOOD.

Mr. MCCALL with Mr. SULLIVAN of New York.

Mr. MCKINLEY of Illinois with Mr. CLAYTON.

Mr. ALLEN of New Jersey with Mr. TRIMBLE.

For the vote:

Mr. BOWERSOCK with Mr. CLARK of Florida.

Mr. SMITH of Maryland. Mr. Speaker, I did not hear my name called.

The SPEAKER. Was the gentleman present and giving attention and listening when his name was called?

Mr. SMITH of Maryland. I was just called out to the door for a moment.

The SPEAKER. The gentleman was not present.

Mr. SMITH of Maryland. I was not in the House.

The SPEAKER. The gentleman does not bring himself within the rule.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages, in writing, from the President of the United States, were communicated to the House of Representatives by Mr. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On March 26, 1906:

H. R. 484. An act granting a pension to William Mayer;
H. R. 628. An act granting a pension to David L. Finch;
H. R. 1569. An act granting a pension to Elizabeth Murray;
H. R. 1775. An act granting a pension to Alexander Kinnison;
H. R. 1803. An act granting a pension to George S. Taylor;
H .R. 1809. An act granting a pension to Lener McNabb;
H. R. 1857. An act granting a pension to Emeline Malone;
H. R. 1888. An act granting a pension to William T. Scandlyn;
H. R. 1912. An act granting a pension to Julia A. Powell;
H. R. 1977. An act granting a pension to Emma C. Anderson;
H. R. 2006. An act granting a pension to Florence B. Knight;
H. R. 2093. An act granting a pension to Sarah A. Pitt;
H. R. 2614. An act granting a pension to General M. Brown;
H. R. 2736. An act granting a pension to William Meredith;
H. R. 3384. An act granting a pension to Benjamin H. Decker;
H. R. 4704. An act granting a pension to Alice Rourk;
H. R. 6148. An act granting a pension to Henry P. Will;
H. R. 6921. An act granting a pension to Eliza B. Wilson;
H. R. 7478. An act granting a pension to George W. Jackson;
H. R. 7984. An act granting a pension to Henry R. Hill;
H. R. 8526. An act granting a pension to Elizabeth A. Mason;
H. R. 9593. An act granting a pension to Charles M. Priddy;
H. R. 9887. An act granting a pension to George Saxe;
H. R. 9955. An act granting a pension to James W. Baker;
H. R. 10253. An act granting a pension to Thomas B. Davis;
H. R. 10677. An act granting a pension to Maria Elizabeth Posey;
H. R. 10770. An act granting a pension to Helen P. Martin;
H. R. 10920. An act granting a pension to Mary Edna Cammeron;
H. R. 11078. An act granting a pension to Rosa Zurrin;
H. R. 11625. An act granting a pension to William C. Robinson;
H. R. 12516. An act granting a pension to James S. Randall;
H. R. 12720. An act granting a pension to Sarah Duffield;
H. R. 12955. An act granting a pension to Lyman Critchfield, jr.;
H. R. 13161. An act granting a pension to Cynthia A. Embry;
H. R. 13165. An act granting a pension to Martin Nolan;
H. R. 13282. An act granting a pension to Lydia B. Bevan;
H. R. 13402. An act granting a pension to John Reynolds;
H. R. 485. An act granting an increase of pension to William J. Bantom;
H. R. 550. An act granting an increase of pension to Joseph E. Scott;
H. R. 1058. An act granting an increase of pension to Alphonso H. Harvey;
H. R. 1071. An act granting an increase of pension to William K. Keech;
H. R. 1137. An act granting an increase of pension to Abraham W. Kaufman;
H. R. 1205. An act granting an increase of pension to Samuel P. Bigger;
H. R. 1243. An act granting an increase of pension to John W. Burton;
H. R. 1331. An act granting an increase of pension to Roswell J. Kelsey;
H. R. 1440. An act granting an increase of pension to Matilda E. Lawton;
H. R. 1460. An act granting an increase of pension to Charles W. Rennel;
H. R. 1553. An act granting an increase of pension to Harvey J. Fulmer;
H. R. 1566. An act granting an increase of pension to Thomas Lowry;
H. R. 1685. An act granting an increase of pension to George W. Bedient;
H. R. 1742. An act granting an increase of pension to Jonathan Daughenbaugh;
H. R. 1787. An act granting an increase of pension to Joseph M. West;
H. R. 1911. An act granting an increase of pension to Harriet E. Grogan, formerly Preston;
H. R. 1962. An act granting an increase of pension to George C. Myers;
H. R. 1967. An act granting an increase of pension to Joseph Baker;
H. R. 1968. An act granting an increase of pension to John Monroe;
H. R. 1997. An act granting an increase of pension to Sanford C. H. Smith;
H. R. 2060. An act granting an increase of pension to John Farrell;
H. R. 2080. An act granting an increase of pension to Sydney A. Asson;
H. R. 2088. An act granting an increase of pension to Sewell A. Edwards;
H. R. 2100. An act granting an increase of pension to Hiram Wilde;
H. R. 2150. An act granting an increase of pension to William E. Smith;
H. R. 2151. An act granting an increase of pension to Lydia C. Wood;
H. R. 2244. An act granting an increase of pension to Fred Dilg;
H. R. 2245. An act granting an increase of pension to Troy Moore;
H. R. 2264. An act granting an increase of pension to Robert McAnally;
H. R. 2344. An act granting an increase of pension to Selden C. Clobridge;
H. R. 2443. An act granting an increase of pension to George W. Mower;
H. R. 2705. An act granting an increase of pension to Henry W. Perkins;
H. R. 2749. An act granting an increase of pension to Agnes Flynn;
H. R. 2763. An act granting an increase of pension to Anthony Sherlock;
H. R. 2766. An act granting an increase of pension to Horace E. Brown;
H. R. 2982. An act granting an increase of pension to Ansel K. Tisdale;
H. R. 2991. An act granting an increase of pension to Henry F. Landes;
H. R. 3225. An act granting an increase of pension to William B. Philbrick;
H. R. 3255. An act granting an increase of pension to Isaac N. Ray;
H. R. 3284. An act granting an increase of pension to Jeremiah Callahan;
H. R. 3397. An act granting an increase of pension to Nicholas Chrisler;
H. R. 3418. An act granting an increase of pension to John Snouse;
H. R. 3435. An act granting an increase of pension to Thomas W. Sallade;
H. R. 3452. An act granting an increase of pension to Jacob McGaughey;
H. R. 3553. An act granting an increase of pension to Levi Pick;
H. R. 3557. An act granting an increase of pension to James B. Wilkins;
H. R. 3685. An act granting an increase of pension to James O. Tobey;
H. R. 3698. An act granting an increase of pension to Joseph E. Miller;
H. R. 3811. An act granting an increase of pension to James White;
H. R. 3981. An act granting an increase of pension to John McKeever;
H. R. 4219. An act granting an increase of pension to John C. Keener;
H. R. 4257. An act granting an increase of pension to Alice M. Durney;
H. R. 4596. An act granting an increase of pension to John J. Hughes;
H. R. 4616. An act granting an increase of pension to William W. West;
H. R. 4759. An act granting an increase of pension to Jane E. Bullard;
H. R. 4810. An act granting an increase of pension to Jerome Goodsell;
H. R. 4816. An act granting an increase of pension to John A. Sherwood;
H. R. 4823. An act granting an increase of pension to John G. C. Macfarlane;
H. R. 4832. An act granting an increase of pension to Henry W. Yates;
H. R. 4989. An act granting an increase of pension to Dominick Arnold;
H. R. 5026. An act granting an increase of pension to Asa Tout;

H. R. 5215. An act granting an increase of pension to Jennie Little;
H. R. 5383. An act granting an increase of pension to John W. Davis;
H. R. 5553. An act granting an increase of pension to Oliver L. Kendall;
H. R. 5564. An act granting an increase of pension to Albert G. Cluck;
H. R. 5615. An act granting an increase of pension to John Coleman, jr.;
H. R. 5616. An act granting an increase of pension to Edgar Schroeders;
H. R. 5724. An act granting an increase of pension to William O. Gillespie;
H. R. 5727. An act granting an increase of pension to William T. Harris;
H. R. 6066. An act granting an increase of pension to Albert H. Lewis;
H. R. 6177. An act granting an increase of pension to John Haack;
H. R. 6395. An act granting an increase of pension to Daniel Ward;
H. R. 6453. An act granting an increase of pension to William H. Marsden;
H. R. 6507. An act granting an increase of pension to James M. Busby;
H. R. 6508. An act granting an increase of pension to John P. Moore;
H. R. 6918. An act granting an increase of pension to Heinrick Krumdick;
H. R. 6936. An act granting an increase of pension to William Miller;
H. R. 6988. An act granting an increase of pension to Seymour Cole;
H. R. 7208. An act granting an increase of pension to Thomas G. Massey;
H. R. 7223. An act granting an increase of pension to George Blair;
H. R. 7229. An act granting an increase of pension to Slater D. Lewis;
H. R. 7396. An act granting an increase of pension to John E. Ball;
H. R. 7412. An act granting an increase of pension to Isaiah Collins;
H. R. 7547. An act granting an increase of pension to George W. Allison;
H. R. 7615. An act granting an increase of pension to Joseph D. Tate;
H. R. 7622. An act granting an increase of pension to Hermann Liebb;
H. R. 7631. An act granting an increase of pension to Joseph W. Foster;
H. R. 7765. An act granting an increase of pension to George Gaylord;
H. R. 7770. An act granting an increase of pension to Burgess Cole;
H. R. 7815. An act granting an increase of pension to Thomas G. Covell;
H. R. 7827. An act granting an increase of pension to William H. Uhler;
H. R. 7883. An act granting an increase of pension to Daniel Dilts;
H. R. 8048. An act granting an increase of pension to William F. Bottoms;
H. R. 8063. An act granting an increase of pension to Mary Coburn;
H. R. 8161. An act granting an increase of pension to Alonzo Douglas;
H. R. 8176. An act granting an increase of pension to Thomas E. Bishop;
H. R. 8202. An act granting an increase of pension to Henry Guy;
H. R. 8207. An act granting an increase of pension to Daniel A. Proctor;
H. R. 8208. An act granting an increase of pension to Eli Brainard;
H. R. 8218. An act granting an increase of pension to Mary C. Spangler;
H. R. 8275. An act granting an increase of pension to Robert Aucock;
H. R. 8289. An act granting an increase of pension to Isaac J. Holt;
H. R. 8376. An act granting an increase of pension to Mary J. McConnell;
H. R. 8607. An act granting an increase of pension to Arthur Haire;
H. R. 8642. An act granting an increase of pension to Henry Crandell;
H. R. 8739. An act granting an increase of pension to Frank N. Gray;
H. R. 8836. An act granting an increase of pension to Elizabeth C. Howell;
H. R. 8917. An act granting an increase of pension to James Hines;
H. R. 9127. An act granting an increase of pension to Isaac L. Rorick;
H. R. 9235. An act granting an increase of pension to Kate H. Kavanaugh;
H. R. 9248. An act granting an increase of pension to James T. Butler;
H. R. 9249. An act granting an increase of pension to Richard S. Cromer;
H. R. 9267. An act granting an increase of pension to William Cook;
H. R. 9447. An act granting an increase of pension to John L. Edmundson;
H. R. 9860. An act granting an increase of pension to Joseph H. Hirst;
H. R. 10047. An act granting an increase of pension to George W. Elicott;
H. R. 10166. An act granting an increase of pension to Elizabeth Morgan;
H. R. 10217. An act granting an increase of pension to William A. Barnes;
H. R. 10271. An act granting an increase of pension to Stephen G. Smith;
H. R. 10322. An act granting an increase of pension to Edgar W. Calhoun;
H. R. 10399. An act granting an increase of pension to John H. H. Sands;
H. R. 10478. An act granting an increase of pension to William McGowan;
H. R. 10632. An act granting an increase of pension to Samuel Preston;
H. R. 10723. An act granting an increase of pension to Benjamin French;
H. R. 10724. An act granting an increase of pension to David Bruce;
H. R. 10725. An act granting an increase of pension to Etta D. Conant;
H. R. 10817. An act granting an increase of pension to William J. Morgan;
H. R. 10827. An act granting an increase of pension to Frank Crittenden;
H. R. 10886. An act granting an increase of pension to Martha S. Campbell;
H. R. 10894. An act granting an increase of pension to William J. Riley;
H. R. 10897. An act granting an increase of pension to Isaac Deems;
H. R. 10914. An act granting an increase of pension to John Hamilton;
H. R. 11000. An act granting an increase of pension to Martha J. Wilson;
H. R. 11052. An act granting an increase of pension to John P. Vance;
H. R. 11065. An act granting an increase of pension to Joseph Pollard;
H. R. 11071. An act granting an increase of pension to Allen E. Williams;
H. R. 11107. An act granting an increase of pension to William E. Fritts;
H. R. 11196. An act granting an increase of pension to William H. Joslyn;
H. R. 11259. An act granting an increase of pension to Barnes B. Smith;
H. R. 11335. An act granting an increase of pension to Thomas Chandler, alias Thomas Cooper;
H. R. 11353. An act granting an increase of pension to Isaac M. Woodworth;
H. R. 11408. An act granting an increase of pension to George W. Reed;
H. R. 11416. An act granting an increase of pension to Lizzie Belk;
H. R. 11415. An act granting an increase of pension to Victoria Bishop;
H. R. 11516. An act granting an increase of pension to Marquis D. L. Staley;

H. R. 11557. An act granting an increase of pension to Clinton A. Chapman;
H. R. 11687. An act granting an increase of pension to Matt Fitzpatrick;
H. R. 11689. An act granting an increase of pension to Bayard H. Church;
H. R. 11742. An act granting an increase of pension to Charles H. Culver;
H. R. 11745. An act granting an increase of pension to James D. Billingsley;
H. R. 11849. An act granting an increase of pension to Robert M. Young;
H. R. 11886. An act granting an increase of pension to Solomon R. Trueblood;
H. R. 11927. An act granting an increase of pension to Calvin D. Weatherman;
H. R. 12090. An act granting an increase of pension to Mary M. Stark;
H. R. 12229. An act granting an increase of pension to Reuben I. Turckheim, alias Joseph Adler;
H. R. 12275. An act granting an increase of pension to Verelle S. Willard;
H. R. 12289. An act granting an increase of pension to Joseph C. Grissom;
H. R. 12292. An act granting an increase of pension to George T. Hill;
H. R. 12351. An act granting an increase of pension to John Foltz;
H. R. 12354. An act granting an increase of pension to Tillman T. Herridge;
H. R. 12391. An act granting an increase of pension to J. Frederick Edgell;
H. R. 12396. An act granting an increase of pension to James Hutchinson;
H. R. 12494. An act granting an increase of pension to John H. Crane;
H. R. 12565. An act granting an increase of pension to Jeremiah Kincaid;
H. R. 12903. An act granting an increase of pension to Daniel T. Ferrier;
H. R. 12948. An act granting an increase of pension to Frederick Bierley;
H. R. 13035. An act granting an increase of pension to Maggie D. Russ;
H. R. 13166. An act granting an increase of pension to William Evans;
H. R. 13348. An act granting an increase of pension to Nancy F. Shelton;
H. R. 13611. An act granting an increase of pension to William Clough;
H. R. 13643. An act granting an increase of pension to Davis W. Hatch;
H. R. 13796. An act granting an increase of pension to John R. Stalcup;
H. R. 14123. An act granting an increase of pension to Gottlieb Spitzer, alias Gottfried Bruner;
H. R. 14358. An act granting an increase of pension to William H. Morrow;
H. R. 14719. An act granting an increase of pension to Hannah A. Preston;
H. R. 1056. An act granting a pension to Galon S. Clevenger; and
H. R. 9216. An act granting an increase of pension to Catharine R. Mitchell.

On March 27, 1906:

H. R. 4736. An act for the relief of the county of Guster, State of Montana;
H. R. 13194. An act to authorize the Secretary of the Interior to reclassify the public lands of Alabama; and
H. R. 16381. An act leasing and demising certain lands in La Plata County, Colo., to the P. F. U. Rubber Company.

On March 19, 1906:

H. R. 122. An act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes;
H. R. 4459. An act authorizing the Commissioners of the District of Columbia to make regulations respecting the rights and privileges of the wharf;
H. R. 4469. An act authorizing the Commissioners of the District of Columbia to make regulations respecting the public hay scales;
H. R. 8107. An act extending the public-land laws to certain lands in Wyoming;
H. R. 10101. An act authorizing and directing the Secretary of the Interior to sell and convey to the State of Minnesota a certain tract of land situated in the county of Dakota, State of Minnesota; and
H. R. 13548. An act to authorize the commissioners' court of Baldwin County, Ala., to construct a bridge across Perdido River at Waters Ferry.

On March 20, 1906:

H. R. 11783. An act for the establishment of town sites, and for the sale of lots within the common lands of the Kiowa, Comanche, and Apache Indians in Oklahoma.

On March 21, 1906:

H. J. Res. 97. Joint resolution authorizing assignment of pay of teachers and other employees of the Bureau of Education in Alaska; and
H. J. Res. 115. Joint resolution amending joint resolution instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies, and report on the same from time to time, approved March 7, 1906.

On March 22, 1906:

H. R. 15085. An act to set apart certain lands in the State of South Dakota, to be known as the Battle Mountain Sanitarium Reserve; and
H. R. 15649. An act extending the time for the construction of the dam across the Mississippi River authorized by the act of Congress approved March 12, 1904.

On March 23, 1906:

H. R. 4. An act to amend section 3646, Revised Statutes of the United States, as amended by act of February 16, 1885;
H. R. 6009. An act to regulate the construction of bridges over navigable waters; and
H. R. 14515. An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or his or her minor children in destitute or necessitous circumstances.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House the following message from the President; which was read, referred to the Committee on Foreign Affairs, and ordered to be printed:

To the House of Representatives:

In response to the resolution of the House of Representatives of the 8th of March, 1906, I transmit herewith a communication from the Secretary of State, accompanied by a report made by Herbert H. D. Peirce, Third Assistant Secretary of State, of the result of his inspection of the consulates of the United States in the Orient.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 28, 1906.*

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

On motion of Mr. LITTAUER, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—Mr. OLMSTED in the chair.

Mr. BROOKS of Colorado. Mr. Chairman, when the committee rose last night the item that was under consideration was the item on page 69 of the bill, and an amendment that was offered thereto, under which the item——

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk read as follows:

In lines 7 and 8, page 69, strike out the word "seventy-five" and insert "one hundred and fifty" in lieu thereof.

Mr. BROOKS of Colorado. Mr. Chairman, speaking to that amendment, I desire to call the committee's attention briefly to the amount proposed in the bill before the committee, the estimates of the Director, and the appropriation for this item in the bill of last year. Last year that item was carried at $115,000. That was based upon the Director's estimate before the mint had actually started and upon the most careful data then obtainable. In the estimates of the Director for this year the item is carried at $150,000, and the committee in its wisdom cut it in two and made it $75,000. The item in this bill for this year for expenses of workmen and employees is only $75,000, and that is for a mint with an employee force of over a hundred men on its rolls, exclusive of the executive force of the mint. Now, gentlemen of the committee, we do not for a moment think or suggest that there could be any possible discrimination at the hands of this great committee against this institution, although this appropriation is reduced just exactly 50 per cent. On the other hand, we think that the action of the committee must have been based upon a very serious and absolute misconception of the facts as they exist. Now, it is true and we admit that of the appropriation for last year when the committee made this estimate only about $40,000 had been expended, but it is also true that on the 1st of July, according to the statement of the Acting Director, there will be only $40,000 left of the $115,000, and that, on the assump-

tion of operations for a full year, because the new mint will have been running on July 1 only about five months, would mean an expenditure of about $118,000. Now, that is not exactly correct, because, of course, before the mint started coining there was a considerable amount of expenditure for workmen and labor, which was properly chargeable to this fund, but it is true that the rate of expenditure to-day demands and warrants an appropriation even larger than $150,000.

Now, we understand it is possible that an excuse for this reduction may be sought to be made because the mint has not been running the full year, because it was not in operation last summer, and that it has only been running for a matter of five months. Well, that is very easily explained. The present coiner was appointed April, 1905. He was appointed under the statement of the Director to the Treasury officials that the mint would begin operations on July 1, 1905, and that statement and that belief was then warranted. The mint machinery was made in 1904, and was a part of the Government exhibit at St. Louis in that year. It was taken to Denver in the winter of 1904 and 1905, and that was about the time when the coiner was appointed and the executive force installed. Now, when the coining machinery was put in it was found there was an error in the contract work, and through the fault of the contractors the concrete that was laid on the floor of the press room had to be relaid and part had to be relaid a second time. The result of that was that not until December, 1905, could the operations of the mint be started at all except in the assay rooms and in the rooms of the melter and refiner, which of course run all the time.

The force for the melter and refiner and for the assayer was employed and was started to work about the time the new mint was occupied, in September or October, 1904, and that work has been going on all the time thereafter. Now, I am advised by the Director, and I want the committee to bear this fact in mind, that if the proposed appropriation is carried in this bill, the present force of men can not be carried for more than six months. In other words, gentlemen, if you cut us down to $75,000 you will stop the Denver mint on the 1st of January, 1907. I do not believe this committee intends to do that thing. I do not believe that it intends to cripple this institution in that way. The only explanation is that you have not understood, and do not understand what the result will be.

Now, there is no consideration of economy in the matter. The committee should understand what the results will be upon the working force. Every new man employed in the institution must be taken from the civil service. These employees have fitted themselves for this work, many of them with the intention of making it a life work, and they will have been at work on the 1st of July only about five months, less than a year in January, 1907; and when they are dismissed, as they must be, they will be forced to go back to other means of livelihood. Many of them will then be unable to get other positions, and there will be great hardship entailed—a hardship that is unwarranted, unnecessary, and unjust. There is, as I say, no possible consideration of economy.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROOKS of Colorado. I ask unanimous consent for a few minutes more, so that I may explain the proposition.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent that his time be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BROOKS of Colorado. There is no possible economy in this proposition. There are $33,000,000 in bullion in the vaults of that mint now, and it is increasing about $2,000,000 a month. They can not coin that bullion in that mint with the amount of money given by the committee, and if you send it away from there it will cost $74,000 to transport that amount to Philadelphia, or rather the amount that will be there on the 1st of July. It will cost $60,000 and more to transport what is there now.

Mr. LIVINGSTON. The gentleman must remember the fact that the Denver mint is employed and the Philadelphia mint is idle.

Mr. BROOKS of Colorado. I do not think that the Philadelphia mint is idle.

Mr. LIVINGSTON. I do not mean that. I mean that it is comparatively idle.

Mr. BROOKS of Colorado. You mean comparatively idle. The Philadelphia mint is working on outside coinage in addition to doing a portion of the coining for this country. It is doing custom work for other countries, making smaller coins. But I want the gentleman to understand we are not attacking the Philadelphia mint or any other mint. What I am arguing for is our own.

Mr. PALMER. I want to ask the gentleman whether he is aware of the fact that for two months last year 500 employees were laid off at the Philadelphia mint; and I would ask him what he thinks would be the consequences if he got what is proposed? Would not the Philadelphia mint be idle for a greater length of time?

Mr. BROOKS of Colorado. I would not think that. The gentleman must remember that the coinage last year was about $90,000,000, and with the present gold production the amount of coinage will probably be increased very considerably next year. Of this the Denver mint proposes to coin only about $30,000,000 or $40,000,000. Therefore there will be more than enough for both the Denver and Philadelphia mints to do. I can not see that there is any consideration in the light of economy in the proposed reduction, because the Government would lose more practically than the amount which would be saved in the expense of transportation to Philadelphia.

Mr. GAINES of Tennessee. Is it not a fact that a great deal of the money coined at Philadelphia is from bullion brought clear across the continent to Philadelphia, going by the Denver mint and San Francisco mint?

Mr. BROOKS of Colorado. I think it is.

Mr. LITTAUER. Have you any facts to that effect?

Mr. GAINES of Tennessee. I want to state to the gentleman that I have favored in the Coinage Committee and legislation on the floor of this House coining the money at San Francisco and Colorado and other places out there as against Philadelphia, not that I was against Philadelphia, but to save the transportation clear across the country to Philadelphia and back at the the expense of the Government and individuals who have to haul it back. A few days ago the gentleman from New York cut out of one of our appropriation bills the money to pay for hauling our silver coin to the country, and the banks down my way are kicking about it.

Mr. BROOKS of Colorado. In reply to the gentleman from Tennessee, and also the gentleman from New York, I will state that I understand that the mints at Boise City and Seattle are both now shipping to Philadelphia for coinage purposes.

Mr. LITTAUER. Shipping bullion?

Mr. BROOKS of Colorado. Shipping bullion for the purpose of coinage. The gold and silver which is shipped from the gold and silver producing countries to the mints for coinage has to be transported back again for circulation, because the coin is circulated more largely in those sections, and that is another strong reason for maintaining coinage operations at Denver.

Mr. GAINES of Tennessee. Is not this also a fact: By having this mint wide open in Colorado, it induces the gold that comes from Alaska to come into the United States and be coined into our money rather than go to the British possessions and be coined into English money?

Mr. BROOKS of Colorado. I should think that would be the case.

Mr. GAINES of Tennessee. That proof was made in the Committee on Coinage about eighteen months or two years ago.

Mr. LITTAUER. The gold coming from Alaska comes to Seattle and is sent from Seattle to Philadelphia under the prevailing rule.

Mr. GAINES of Tennessee. No; I feel sure that the gentleman from New York is mistaken.

Mr. BROOKS of Colorado. I want for a moment to compare the reductions that this bill proposes with the estimates of the Director. The estimates of the Director for the Denver mint for this year are $150,000 for workmen and $50,000 for the contingent expenses. The bill carries $75,000 for workmen and $30,000 for contingent expenses, a reduction of 50 per cent in the workmen's allowance and a reduction of 40 per cent in the contingent allowance.

For the Philadelphia mint the estimates are $400,000 for workmen and $85,000 for contingent expenses. The allowance in the bill is $400,000 for workmen, no discount, and $75,000 for contingent, a discount of less than 12 per cent.

Mr. PALMER. Are you not aware of the fact that the Philadelphia mint was reduced $50,000 from last year?

Mr. BROOKS of Colorado. From the appropriation of last year; yes. That was a reduction by the Director and not by the committee. I am speaking now of the treatment that this mint is receiving at the hands of this committee.

For the San Francisco mint the recommendation in the estimates was $165,000 for workmen and $50,000 for contingent expenses, and the reduction is fifteen thousand in workmen—less than 10 per cent—and ten thousand in contingent, or 20 per cent; and this is just half the percentage of reduction on the same item for Denver. In other words, out of a total reduction of $135,000 in this appropriation bill for these mints $95,000 is taken from one single institution. I want the committee to

appreciate that fact. Out of a total reduction of $135,000, in round numbers, nearly three-quarters are taken from the Denver mint.

Mr. LITTAUER. Will the gentleman tell the committee how much of the amount appropriated for the current year will not be used at Denver, the single institution where the reduction to which you referred takes place?

Mr. BROOKS of Colorado. I have already answered that question. The statement of the superintendent is that there will be about $40,000 unexpended out of this item of $115,000 on the 1st day of July, and that is on a coinage operation of only five months. Now, as I said before, computing the operations for twelve months on that basis, it equals an expenditure of about $180,000, or $30,000 more than the Director asks you to appropriate.

Mr. SOUTHARD. Will that $40,000 be available for next year?

Mr. BROOKS of Colorado. Not at all. The $40,000 and also any excess in the contingent fund will be covered back into the Treasury. And by the way, the Director and also the Superintendent of the Mint inform me that the contingent fund will be entirely exhausted before that date.

There is no warrant, gentlemen, in fairness or in economy, and there is no warrant in reason, for the reduction that the committee have ill advisedly made. I do not say they have intended to strike this mint down. I do not suppose for one moment that they intend to injure that institution. I do not suppose that they are discriminating in favor of one mint as against another, but the result of it is exactly that, for it will shut up the Denver mint for six months in the year, and shut it up unjustly.

Now, if there is any section of this country that is entitled to the consideration of the Appropriations Committee in the matter of coinage it is the great gold-producing section of the country. Last year we produced in this country, in round numbers, in gold $85,000,000, and in silver about $29,000,000, or about $114,000,000. Of that sum more than 25 per cent was produced in the single State of Colorado, with a gold output of over $25,000,000 and a silver output of over $6,000,000, and the States that are directly tributary to Denver, from whence the gold comes to that mint—Utah, South Dakota, and New Mexico—swell that total to $37,000,000 in gold and $7,000,000 in silver, or about $44,000,000. In other words, the part of this country that is producing the gold, and the part of this country where the men producing it have the right, under the statute, to take their gold, bring it to the mint, and receive the coin for it, is where this mint is located. Every consideration, therefore, of locality, every consideration of fairness, every consideration of economy, and, we think, every consideration of legislative propriety demands that this mint should receive at least fair treatment at your hands. We do not make any special plea for this section; we do not make any special plea because we are Colorado or because we are near South Dakota or because we are near Utah or Wyoming, but we make the plea because the Congress of the United States has said that a mint should be located there and that gold should be coined there for all comers by the Government and because we have a new mint there which is the finest mint in the United States, and possibly the finest mint in the world—a mint where there are administrative economies in operation that can not be approximated anywhere else. In the single item of the melter and refiners' room there are electrical devices that almost absolutely obliterate the waste and loss occasioned at the older mints.

In the annealing and coining rooms there are new devices and new machinery that very much reduce the cost of operation and that give an extraction very much higher than the older institutions can give, and the gold coin output bears a much higher percentage to the bullion consumed than you can get in the older mints. Do you want to shut down the mint where the work is being done in that way? Do you want the newest plant you have to be closed, the plant where you have the machinery which you took to St. Louis to show to the whole world as your finest product? Do you want to strike an institution of that sort and close its doors for six months in the year? I do not believe this committee will do that, if they understand what they are doing.

Mr. LITTAUER. Mr. Chairman, I will attempt to present to the committee the facts through which the Committee on Appropriations was led to submit the items as they stand in the bill. I will state in the outset that in considering matters of expenditure at the mints we have ever before us the fact that while the United States has in operation four mints, one mint would be sufficient to turn out all the coinage necessary for the country.

A year ago, when the Director of the Mint presented to us the facts regarding the establishment at Denver, he stated by the 1st of July, 1905, that mint would be in operation as a mint. Members of the committee must bear in mind that we have had an assay office at Denver for many years past. On the statement of the Director that the assay office would be turned into a mint, for which a most elaborate building and most complete machinery had been furnished, we increased the organization of that old assay office, which had cost annually $15,250 for many years, by adding an additional expenditure for organization alone of $23,000.

We added that amount to the appropriation on the basis that the service of these men would be needed for the purpose of conducting the mint after the 1st of July, 1905. To the wages for workmen, which for the assay office in previous years had been allowed $27,000, we added the large sum of $88,000 for the purpose of conducting the operations of the mint in addition to the former and usual provision of $27,000 for the wages of the workmen in connection with the assay office. And then, in the incidental expenditure, we increased from $10,500, which had been allowed the assay office, to $40,000, under the idea that the mint was to begin the first of the fiscal year. That sum total means that we added last year to the appropriation $140,500 for the purpose of opening and conducting this mint to the appropriation previously made of $52,750 when it was conducted as an assay office.

Mr. BROOKS of Colorado. You do not mean to say that the appropriation would not have been needed if the mint had started at the time it was intended?

Mr. LITTAUER. No; that was the estimate given to us, and it seemed reasonable, if the establishment was to begin as a mint on the 1st of July, and we recommended that in the appropriation.

Mr. BROOKS of Colorado. How would the fact that only some $40,000 of the labor item would be unexpended on July 1 out of the $115,000 after only five months' operation warrant the committee in making an appropriation of but $75,000 for twelve months' operation?

Mr. LITTAUER. I will come to that shortly and see if I can convince the committee. Members will bear in mind that we appropriated $140,000 over the previous appropriation for the assay office. Now, we have been continually met with expectations unrealized in connection with the Denver mint. The hearings on this topic took place on the 13th of February of this year. At that time, even, the Director of the Mint stated:

We expect to be in complete operation during the coming fiscal year.

My question to him was, "What are your expectations based on—is your machinery installed?"

Yes; we are doing coinage there to-day.

We were advised that the coinage practically begun on the 1st of February. We felt that the expectations unrealized the previous year had cost the Government a large sum of money, especially for salaries of those in the organization of this mint.

Mr. BROOKS of Colorado. How would it be a cost to the Government when the unexpended portions of the items for labor and for the contingent expenses would be covered back into the Treasury?

Mr. LITTAUER. I am referring to the organization, not to labor. I must admit that the labor cost would not be any different, but the gentleman stated that there would be a balance of $40,000 at the end of this year. There are no facts before us which would lead us to the belief that there will not be $60,000 left over the amount appropriated for wages, for we found out that during the first six months of the year, when a certain amount of labor was used for the installment of machinery, that there was but $27,000 out of $115,000 appropriated for the fiscal year unexpended at the end of the first six months.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LITTAUER. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from New York asks that his time be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BROOKS of Colorado. The gentleman, of course, understands that the present wage roll is $8,000 a month there?

Mr. LITTAUER. I have no information to that effect. The information given to us on February 13 of this year is that the work of coinage has started. How rapidly it started we were unable to find out. We do know, however, that coinage has started, and that it will probably progress, and that there will be a large sum or a large part of the amount appropriated for coinage left on hand at the end of the year.

Mr. BROOKS of Colorado. Will the gentleman allow me to put in the RECORD an excerpt from a letter from the Acting Director of the Mint, dated March 20?

Mr. LITTAUER. The Acting Director of the Mint here?

Mr. BROOKS of Colorado. Yes.

Mr. LITTAUER. I would be quite content to have the gentleman read the letter, but do not want him to read it in my time. Now, we have to take a comprehensive view of the entire coinage problem in determining upon the amounts to appropriate at one place and another. The mint at New Orleans has been reduced to the lowest figures to which any mint could possibly be reduced and still keep in operation. The mint at San Francisco, one of our old mints, has had an appropriation up to the present year of $175,000 for the purpose of paying the wages of coinage. Now, when we come to the consideration of that mint I asked the Director of the Mint, "Do you expect to do as much work at Denver during the coming fiscal year as you have been doing at San Francisco?" Bear in mind that San Francisco in the past has had appropriated $175,000 for this purpose. The estimates for this year were $165,000. We recommend in this bill $150,000. His answer is, "No; we do not." Now, if the amendment of the gentleman from Colorado [Mr. BROOKS] should prevail there would be as large a provision for coinage purposes proper at Denver as has been made for San Francisco.

Mr. BROOKS of Colorado. Oh, that is an error.

Mr. BONYNGE. The committee has appropriated $165,000, has it not, for San Francisco?

Mr. LITTAUER. We have in this bill $150,000, and it will be reached in the next paragraph or two.

Mr. BROOKS of Colorado. While the gentleman is right on that point, will he yield to a question?

Mr. LITTAUER. I should be pleased to yield, but I would like to make my statement first.

Mr. BROOKS of Colorado. The question has relevance to what the gentleman is saying now.

Mr. LITTAUER. The gentleman may put his question.

Mr. BROOKS of Colorado. Will the gentleman tell the committee why it is that they elected to cut the Denver mint appropriation in two as compared with the estimates and cut the others about 10 or 15 per cent?

Mr. LITTAUER. Because at San Francisco during the current year $175,000 will be expended for wages. The force is there. It is employed, and the gentleman's own argument that he made a few moments ago will bear directly on this point—that there is the mint with an organization of experienced men now employed, and we propose to cut that appropriation from $175,000 to $150,000, taking off one-seventh. At Denver the appropriation for this year was $115,000. The gentleman stated that $40,000 of that will not be expended, so that there could have been expended there only $75,000, and of that amount $27,000 would naturally go to the wages of those engaged in the assay office.

Mr. BROOKS of Colorado. But that is, of course, on the basis of five months' operation.

Mr. LITTAUER. It is on a basis of what was performed this year and under the organization that is there. Now, again, at Philadelphia $450,000 has been the appropriation for wages for workmen for a number of years. We have not work to do. Our silver is all coined. All the work we have is this gold coinage, and bear in mind that during the past year these mints could not have been employed were it not for the fact that we made one-fifth as many pieces of gold and silver for foreign countries or for our dependencies, as we did for the uses of the United States, or nearly one-fifth. Out of a total coinage of about 85,000,000 pieces of gold and silver, 18,750,000 were for other governments than the United States.

Mr. SOUTHARD. Mr. Chairman, will the gentleman yield?

Mr. LITTAUER. Yes.

Mr. SOUTHARD. I wish to call the gentleman's attention to the fact that the expense of coinage was increased by reason of that over and above the amount stated by the gentleman from New York.

Mr. LITTAUER. The expenses of coinage were increased by a small amount. In other words, the appropriations for the Philadelphia mint were altogether $577,550, and I believe a total of $632,000 was expended at the mint, the balance being obtained through the payments of other countries for work performed.

Mr. SOUTHARD. In the year 1905, the total expenditures of the Philadelphia mint were $686,462.82.

Mr. LITTAUER. That is not on account of coinage alone. There were other operations on that. Six hundred and thirty-two thousand dollars or thereabouts is the figure that I have before me. Now, I find this, that the concentration of coinage means economy. The Philadelphia mint turned out 55,000,000 pieces of gold and silver, and 103,000,000 pieces of copper and nickel at a cost of $632,000.

Mr. GAINES of Tennessee. How much does it cost the Government in transportation to haul the bullion from Denver to Philadelphia?

Mr. LITTAUER. I believe no bullion has been transported from Denver to Philadelphia since 1904.

Mr. GAINES of Tennessee. It costs $1.86 a thousand. Can the gentleman from Colorado tell me how much?

Mr. BROOKS of Colorado. Sixty-one thousand dollars on the gold now stored.

Mr. LITTAUER. Does that answer the question?

Mr. BROOKS of Colorado. Yes. Sixty-one thousand dollars on the gold now stored, and if the estimates of the superintendent are carried out and there be forty millions there on the 1st of July, it will be $74,000, or within $1,000 of this amount they propose to save to the Government by this cut, but which the Government will pay out again to the express companies.

Mr. LITTAUER. To what are you referring, the rate of expressage on bullion or on coin?

Mr. BROOKS of Colorado. On bullion.

Mr. LITTAUER. Now, then, if that coin were transferred to the East, it would cost so much more, and if coined at Denver and then transferred to the East, where the Acting Director of the Mint advised us the greatest amount of our gold coinage was put into circulation and was stored for the purpose of issuing gold notes, then the expenditure would be on the other side of the ledger.

Mr. BROOKS of Colorado. And the consignee would pay it, and not the Government.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LITTAUER. I would like to ask unanimous consent to continue two minutes longer.

The CHAIRMAN. The gentleman from New York asks unanimous consent that he may continue two minutes longer.

Mr. BROOKS of Colorado. I will ask that he be given five minutes if he will answer one more question.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. LIVINGSTON. I would suggest that debate, however, on the paragraph has been exhausted.

Mr. BROOKS of Colorado. Is it not true the expressage on the coins as they leave the mint is paid by the consignees and not by the Government?

Mr. LITTAUER. It is not true in custom. The coin is transferred from San Francisco direct to Philadelphia for the purposes of the Government and paid for by the Government.

Mr. BROOKS of Colorado. Well, that is only when Government exigencies demand it.

Mr. LITTAUER. They are generally such as to make such a demand for transportation.

Mr. BROOKS of Colorado. The fact is, although in shipping gold from one mint to another the Government pays the cost, a party sending gold to a mint pays the expense of shipment, and the man who goes to that mint and gets the coined gold to circulate in any other locality also pays the expense to the point of distribution.

Mr. LITTAUER. Yes; but in practice that is not the fact.

Mr. GAINES of Tennessee. Why not in practice?

Mr. LITTAUER. Simply because the Government necessities have demanded the transportation of coin from our mints in the far West and frequently from our mint at New Orleans.

Mr. GAINES of Tennessee. And it is a governmental transfer?

Mr. LITTAUER. To where it is demanded.

Mr. GAINES of Tennessee. Do you not think it is a very wholesome policy to open up these western mints and let the money be minted there which we pour out into this big sink hole in the Philippines rather than to send it to Philadelphia—transferring it from Hell Gate to the Golden Gate, you might say?

Mr. LITTAUER. A great part of the coinage for the Philippines was made at San Francisco.

Mr. GAINES of Tennessee. And a great deal of it was made at Philadelphia; in fact, the most of it.

Mr. LITTAUER. Now, gentlemen, the total expenditure, in round numbers, for coinage has been a million dollars a year. How are we going to continue to expend this amount of money for the smaller amount of coinage needed was the problem we had before us. Where were we going to get the work for all these mints? We felt it was necessary to cut down these expenditures. We have reduced the submissions for the coming year from the appropriations for the current year, $60,000 at Philadelphia, $35,000 at San Francisco, and the item that we submit for Denver is $90,000 more for the purposes of coinage than was formerly expended there when only an assay office. Now, we claim in the interest of economy and good governmental

management that we have made a fair proposition and submit a fair appropriation here.

Mr. BUTLER of Pennsylvania. Was the reduction at Philadelphia made on the advice of the Director of the Mint?

Mr. LITTAUER. In part only, that part in connection with the wages of workmen. But bear in mind, gentlemen, the work in Philadelphia could only be continued for ten months. That old and well-organized establishment, turning out satisfactory and superior work, could not be continued because of the lack of work for more than ten months. Now, had the Denver mint been running all this time probably Philadelphia would have to remain idle many months.

Mr. BUTLER of Pennsylvania. May I ask the gentleman another question?

Mr. LITTAUER. Yes.

Mr. BUTLER of Pennsylvania. Did the committee make any further reduction than that suggested by the Director of the Mint?

Mr. LITTAUER. We made a further reduction of $10,000 in incidental expenditures, but not in wages for workmen.

Mr. MOON of Pennsylvania. Mr. Chairman——

Mr. BURLESON. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Texas?

Mr. MOON of Pennsylvania. Is it not true——

Mr. BURLESON. Mr. Chairman, I want to be recognized in my own right to submit a few observations on the bill.

Mr. MOON of Pennsylvania. Is it not true during the past year in the mint at Philadelphia there was installed new machinery for the manufacture of blanks for nickels and 1-cent pieces?

Mr. LITTAUER. Yes; and a great saving to the Government arises from this installation and manufacture there.

Mr. MOON of Pennsylvania. And will not that saving to the Government involve an expenditure of nearly a hundred thousand dollars additional for labor in Philadelphia during the current year? I am so informed.

Mr. LITTAUER. Well, that machinery was installed and the copper and nickel pieces turned out during the past year, and they turned out a hundred and three million pieces.

Mr. MOON of Pennsylvania. May I ask the gentleman a further question? Is it not true the profits from the modern machinery of the Philadelphia mint alone last year in the manufacture of those pieces amounted to nearly $2,000,000, or enough to pay the running expenses of all the mints in the United States?

Mr. LITTAUER. I had not given attention to that phase of the problem.

Mr. MOON of Pennsylvania. I am informed that that is true.

Mr. LITTAUER. We were looking to making a proper expenditure without regard to the income.

The CHAIRMAN. The gentleman from Texas is recognized as first addressing the Chair.

Mr. BURLESON. Mr. Chairman, to my mind, this is a simple problem, and one that should be very easy of solution. The issue is, Shall we increase the item which provides for wages of workmen at the Denver mint? We have four mints in this country that are doing the coinage to meet the necessities of commerce in our country. It will cost to do this work properly a given sum of money. Your committee gave the matter most careful consideration and reached the conclusion that $667,800 was sufficient money to provide for the wages of workmen at the four mints to provide the necessary coinage for our country. Making up this sum the committee allotted $42,800 to New Orleans for wages of workmen, which is the smallest amount, as stated by the chairman of the subcommittee, that is possible for us to allow and continue the mint at that point. We allotted $400,000 for this purpose at the mint at Philadelphia; we allotted $150,000 to the mint at San Francisco, and $75,000 for the mint at Denver, aggregating $667,800, a sum which we contend is fully ample to pay the wages of all workmen at the four mints to meet all demands for coinage.

Now, gentlemen, if you increase the amount of appropriation for wages of workmen to be expended at the Denver mint, unless you propose to wantonly throw the money away, you ought to reduce the appropriations for wages of workmen to that extent or for an equal amount at the Philadelphia mint or at the other mints; and you can not escape the conclusions. We ought to appropriate enough money to meet the necessities of this service; we ought to give ample funds for the purpose of providing for necessary coinage. But, gentlemen, if you increase the appropriation at Denver for wages of workmen, then you ought to either decrease the appropriation at San Francisco or New Orleans or Philadelphia to an amount equal to the increase at Denver——

Mr. BUTLER of Pennsylvania. That answers the question I wanted to ask the gentleman.

Mr. BURLESON. You can not possibly escape that conclusion, unless we propose to merely fritter the public money away. Now, personally, and I want to be perfectly candid in dealing with this situation, I think the gold and silver bullion should be principally coined at the Denver mint. I favor the Denver mint because of the saving of cost of transportation of the bullion, which is in a large measure found in that section. But we might just as well look the situation in the face. Unless you propose to close the Philadelphia mint three months in the year, and probably for a longer period, by decreasing the appropriation for wages of workmen at that mint, then you must necessarily vote down the amendment offered by the gentleman from Colorado. If you vote up his amendment, or adopt it, then if you are careful guardians of the people's money, you are bound to reduce the amount to be given to Philadelphia. To increase the appropriation at Denver without making a like decrease in the appropriation for wages of workmen at Philadelphia is to simply throw away the people's money for a useless purpose.

Mr. BUTLER of Pennsylvania. May I ask the gentleman a question?

Mr. BURLESON. Certainly.

Mr. BUTLER of Pennsylvania. Would it necessarily be reduced at the other points?

Mr. BURLESON. It could not be reduced at New Orleans, because the appropriation for wages of workmen there is just as low as possible, if we are to carry on the mint there. To make a further reduction means to close the mint.

Mr. BUTLER of Pennsylvania. How about San Francisco?

Mr. BURLESON. It would be unwise to cut down the appropriation for San Francisco, because of the great volume of gold coming from that immediate section and from the Klondike, which is geographically tributary to that point. Now, gentlemen, you can not dodge the situation. If you want to be perfectly just and fair to the people who bear the burden of paying these appropriations, you have either to take off this amount from the Philadelphia appropriation, proposed by the gentleman's amendment, and add it to the Denver appropriation, or——

Mr. BROOKS of Colorado. Will the gentleman allow me to ask him a question?

Mr. BURLESON. Certainly.

Mr. BROOKS of Colorado. If I am correct in my figures, the total appropriation for labor and contingent expenses in all the mints and assay offices in the United States amounted, in round numbers, to $1,100,000. This sum was carried in your bill.

Mr. LITTAUER. This year.

Mr. BROOKS of Colorado. Your proposed saving is $135,000 over last year. That amounts to 12½ per cent. Now, why will you take 50 or 40 per cent of the current estimates from Denver and practically nothing from these others?

Mr. BURLESON. If I could have my way, I would not do it, as I have already stated, but the majority of the members of the committee thought it wise to permit the Philadelphia mint, that is thoroughly equipped to do all our coinage, so far as that is concerned, to do the bulk of the work, as it has been doing in the past. The Philadelphia mint has an organized force at present in the employ of the Government, and that was the reason that controlled the committee in its efforts to apportion this work. But, as far as that is concerned, I say, without multiplying words about this question, putting this proposition in a nutshell, it will take so much money to do the necessary and needed coinage of our country and this aggregate sum necessary for this work has been apportioned between the four mints; now, if you increase the amount to be expended at one of them, then you ought to decrease the amount to be expended at the other points, unless you are disposed to wantonly throw the money away. Surely you don't want to make an appropriation of money beyond an amount necessary to do this work.

Mr. BROOKS of Colorado. The gentleman has interjected an element into this discussion that I very much regret, because we have no desire to reduce the appropriation for the Philadelphia mint or the New Orleans mint or the San Francisco mint.

Mr. BURLESON. Of course not; but that is the situation you have confronting you, and you might just as well face it, as far as I am concerned, because I will not vote to increase the cost of mintage at Denver unless you assure us you will aid in reducing the appropriation at Philadelphia.

Mr. BROOKS of Colorado. Is it not true that if the Denver item should stand where the Director left it, the saving in coinage over last year would still be $41,000?

Mr. BURLESON. I will not take issue with you on that

proposition, because it is a matter of no consequence and has no bearing on the issue before us. Hence it is not necessary for me to take issue with you. However, I will say to the gentleman that the subcommittee, of which the distinguished gentleman from New York [Mr. LITTAUER] is chairman, having the making up of this bill, gave most careful and painstaking consideration to this question, and reached the conclusion that $667,800 was ample to provide the wages of workmen to do the necessary coinage of our country. Having reached that conclusion, the committee then apportioned the sum among the four mints. The gentleman from Colorado, by amendment, proposes to increase the amount allowed for this purpose to the mint at Denver. If you do so, if your committee was right in its estimate of the amount necessary to do this work, then you must reduce the amount appropriated for this purpose at the Philadelphia mint.

Mr. BROOKS of Colorado. The $667,800 include only wages of workmen.

Mr. BURLESON. Yes; but that is the item you propose to increase, and consequently I do not complicate the issue by discussing the others.

Mr. BROOKS of Colorado. The Denver item could remain as estimated for by the Director, and the other items could stand as carried in the bill, and still there would be a reduction of $41,000 from last year's appropriation.

Mr. LITTAUER. But the gentleman has admitted a number of times that all of the appropriation for the current year would not and could not be used at Denver. You have stated over and over again that there will be a balance of $40,000 unexpended at Denver. Consequently, though the totals would be reduced, the actual expense would not be reduced.

Mr. BROOKS of Colorado. That unexpended balance in Denver is only due to the fact that the mint did not start until February, and hence will not have been operated half the current fiscal year.

Mr. LITTAUER. Unquestionably so.

Mr. GAINES of Tennessee. I want to say a word or two by way of giving some information, as I stated a while ago in a colloquial way. A couple of years ago, or at all events in the last Congress, we had up and under a hot fire in the Coinage Committee room the metric system, and that has also been up at this session. In the course of taking testimony on that subject a gentleman who lived in British America appeared as one of the witnesses, and in the course of his evidence he stated that the British Government was establishing assay offices in the corner of British Columbia for the deliberate purpose of catching all of the gold possible that comes from Alaska and having it stamped with the British stamp, thus inviting it into the markets and commerce and monetary arteries of British America. Now, that is an indisputable fact. I remember it distinctly. The gentleman from Washington [Mr. CUSHMAN] was a member of the committee and happened to have an assay bill pending before the committee, and I was glad to develop that fact in behalf of his bill, because I thought then and I think now that it is a wise policy to keep wide open our assay offices in the northwestern portion of our country particularly, in order that we may catch all of the gold possible coming from Alaska, and, if possible, invite gold from the British possessions to the mints and the money-making machinery of the Federal Government.

Mr. LITTAUER. I call the gentleman's attention to the fact that the assay office at Seattle was established in 1900.

Mr. GAINES of Tennessee. Why did you do it?

Mr. LITTAUER. In order to draw to that assay office the gold coming from Alaska and to keep it from going to British Columbia.

Mr. GAINES of Tennessee. Exactly; and I was instrumental, I am glad to say, in having that done; and I am just as interested now, Mr. Chairman, in not having any one of these western mints minimized in order to build up Philadelphia or any other eastern mint. Philadelphia is not in the gold and silver producing territory; it is thousands of miles away from where the gold and silver come from, and I want to say to my friend from Texas [Mr. BURLESON] that I am just as economical as he is.

Mr. BURLESON. Yes; but the Philadelphia mint is the most expensive mint we have in this country.

Mr. GAINES of Tennessee. Why should it be?

Mr. BURLESON. It is competent to do all the minting for the whole United States.

Mr. GAINES of Tennessee. Why should it be more expensive than Denver or San Francisco? The transportation—hauling bullion to it and coin from it—must make it a costly mint. Certainly it is not the most important geographically. Now, I do not want to strike Philadelphia at all; I do not want to lay heavy hands on her. Legislation should not be for the benefit of Philadelphia and Denver and New Orleans and San Francisco; it should be for the benefit of all the people of this country; and we should keep open the mints—build them up close to the gold and silver fields. The easterners come from Connecticut, Massachusetts, Pennsylvania, and Maine, and bring their cotton machinery to the cotton fields of the South, where they know that they can make the goods cheaper than they can to ship raw cotton to the New England States and send the goods back South and elsewhere.

Yet in the wisdom of this great committee, headed by the distinguished gentleman from Minnesota aided by the distinguished gentleman from New York, they have minimized the importance of these western mints, cut down San Francisco, cut down Denver, and are building up Philadelphia, which is thousands of miles away from where the raw gold comes to the shores of this country.

Mr. BINGHAM. If the gentleman will allow me——

Mr. GAINES of Tennessee. Why certainly, my dear sir.

Mr. BINGHAM. While Philadelphia may not be in the center of the gold-producing section, it is in the section of the East where the great bulk of the money of the country is expended.

Mr. GAINES of Tennessee. I want to say to my good friend that if money was used as my good friend from Philadelphia uses it, we should not have as much money troubles in the world as we have to-day. [Laughter.] He treats his fellowmen fairly and remembers the golden rule.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GAINES of Tennessee. Mr. Chairman, I would like five minutes more.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that his time be extended five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GAINES of Tennessee. Now, Mr. Chairman, we have coined a great deal of money for the Philippine Islands, mostly at Philadelphia. Why, in the name of heaven, was the raw bullion hauled from Nevada and Colorado and California, carried to Philadelphia, unless it was to increase railroad tolls at the expense of the Government? Why was it hauled to Philadelphia with the great high tariff paid the railroads, and then coined—I do not care at what expense; of course, it was legitimate—then hauled back to the Golden Gate and shipped to the Philippine Islands?

Why was it not coined at San Francisco? Why was it not coined at Colorado? Why not now build up these mints, that we may save the railroad tolls against which we are standing here to-day as a great unit trying to regulate them? Why cut down Denver and New Orleans to the minimum, as the gentleman from Texas says? Silver comes from Mexico, gold comes from Mexico; the farmers of Texas and the farmers of the Southwest want silver and they want gold and they want money. Why not build up that mint, too? I have fought that nine years, to keep Congress from shutting up the mint at New Orleans. There is some one always trying it shut it up. Why thus oppress New Orleans, historic city, sacred place, where Jackson told the enemy when they came again to see us to leave their swords behind them. [Applause.] Geographically it is splendidly situated to catch the gold and silver from the West; geographically it is splendidly situated to catch the gold and silver coming from Mexico and from South America, if you please, where we are now about to dig a ditch if we can get honest men to do it, and I thank God that we have got one, the Secretary of War, Judge Taft, and I believe he will do it.

Now, Mr. Chairman, why be penny wise and pound foolish about Denver. I never expect to be there. Denver is nothing to me except a beautiful little city that has risen up in the great Sahara, that is a monument to her people and our country. It will be cheaper than railroad transportation, cheaper than to bring the gold from California and Nevada and coin it in the East, and then ship it back to San Francisco again. Now, we expect to find gold in the Philippine Islands. I have been told, possibly to draw me away from my anti-imperial devotion, for I believe that the Constitution follows the flag, and I don't want the flag to go anywhere that the Constitution does not go—possibly they told me there was gold in the Philippines for that purpose. If it was all gold, I should want to bring back the American eagle and the flag and the dust of those honored heroes that have died there under the flag in that disease-breeding and un-American country.

Mr. Chairman, I am glad that I came into the House when you were about to be penny wise and pound foolish. I love Philadelphia. I go over there sometimes and have a glorious——

A MEMBER. Time.

Mr. GAINES of Tennessee. Opportunity. [Laughter.] And

I am satisfied if I should ever have the opportunity of facing my charming friend, the gentleman from Pennsylvania, General BINGHAM, I would have the time of my life, and I hope it won't be long. [Applause.]

Now, Mr. Chairman, I do not know what the gentleman from Colorado [Mr. BROOKS] wants. He always wants something. It is the general complaint with the gentleman from Colorado that he wants something, and I want to say, even if it is to get some rubber-neck machinery, that he usually is right. In his rubber matter he was in part wrong, and I opposed him. In this he is entirely right, because he wants to keep Congress from destroying that mint, and I am aiding him. I am not going to vote to cut down these mints in the West. It is unwise—a bad policy. We can also save railroad tolls if we do this. I am opposed to it because I want to catch all the gold coming from Alaska possible and stamp the American eagle on it. I want to build up that place and to save the railroad tolls in hauling the bullion and in hauling it to the Philippines, and pay our soldiers out West at a small expense. Why not coin it there and take it out to the soldiers and give them clean money—and I am for clean metal money and clean paper money for the humble soldiers, too. So I say it is a mistaken policy to refuse to cut down the Philadelphia mint, because they say if you cut down the Philadelphia mint you cut it down to build up the mint at Denver. Do right, though the heavens fall. I say Denver geographically is more important to this country now as a mint center than Philadelphia is or can be. San Francisco is of more importance, you might say, than Denver is, because it is closer to the Philippine Islands, where we are obliged to take our silver money to pay off our governmental expenses in that country.

Mr. BONYNGE rose.

Mr. LIVINGSTON. Mr. Chairman, I make the point of order that under the rule debate is exhausted on this paragraph.

Mr. BONYNGE. Mr. Chariman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Colorado moves to amend the amendment by striking out the last word, which is in order under the rules.

Mr. BONYNGE. Mr. Chairman, the gentleman from New York [Mr. LITTAUER], in charge of the bill, opened his remarks by stating that one mint would do all the coinage that was necessary for the country. With all due respect to the eminent gentleman who is in charge of this bill and to the Appropriations Committee that has added so much legislation to an appropriation bill, permit me to say to the gentleman from New York, and to call the attention of the Members of the House to the fact, that Congress, by an act signed by the President, has determined that there shall be four mints doing coinage for the United States, and not the one mint that the gentleman from New York refers to. In a letter that I received the other day from the Secretary of the Treasury there is this statement as to the amount of money that has been expended for constructing and equipping the mint at Denver: The cost of the site and of the construction of the mint building at Denver was $800,000, and the amount appropriated for the equipment of the same, with machinery, appliances, and furniture, was $345,000, making a total of $1,145,000 for the construction and equipment of that institution. That amount has just been expended, Mr. Chairman, and the mint was not completed until last year. It opened for actual coinage purposes on the 1st day of February, 1906. It has, therefore, been engaged in actual coinage since the 1st of February—just about two months.

Now, after the Government has expended more than $1,000,000 there for the erection and equipment of that mint, we are met with a proposition by the chairman of the Committee on Appropriations, or by the gentleman in charge of this bill, that we shall not appropriate any money to operate the mint for which the Government has expended that amount. The Director of the Mint, in making his estimate to the Appropriations Committee, based it upon the amount of coinage that would be done at the Denver mint during the next fiscal year. He states that fact in the letter to which I have called attention, and from which I desire to read the following:

> To conduct active coinage operations at the mint in Denver during the fiscal year 1907, it is estimated by the Department that the sum of $150,000 would be required for wages of workmen and $50,000 for incidental and contingent expenses.
>
> This estimate is based upon the probable coinage at Denver of thirty to forty millions of dollars in gold, and from one to three million dollars in silver per annum.

The estimate of the Director of the Mint for the wages of workmen was $150,000. This committee, without taking any testimony to find out how much it would cost for the wages of workmen for the next fiscal year to coin the gold that is now in the vaults of the Denver mint, arbitrarily cut that estimate in two and make it $75,000?

Mr. LITTAUER. Will the gentleman please state what necessity there is for coining the gold now in the Denver mint?

Mr. BONYNGE. Yes; very gladly; and it was the next proposition I was coming to; because it gives just this choice, Mr. Chairman: Either you will coin that gold that is now in the vaults at the Denver mint—and, remember, there are $33,000,000 of gold bars in the Denver mint—or else you will take these gold bars and ship them to the Philadelphia mint at an expense to the Government of just exactly, or practically the same amount, as we ask for as an increased appropriation to-day to do that work at the Denver mint. That is the whole proposition in a nutshell. It will not save the Government of the United States $1,000, whether you coin it at Denver or ship from Denver to Philadelphia. If you coin it at Denver you make use of a plant for which the Government has paid over $1,000,000, and the amount expended is paid in wages to American workmen. If you coin it at Philadelphia you pay the same amount to railroad and express companies.

Mr. LITTAUER. But what would you do with it after you coin it?

Mr. BONYNGE. You will issue your gold certificates against the gold.

Mr. LITTAUER. Or else transport the coin to the East, where it may be distributed.

Mr. BONYNGE. The Secretary of the Treasury states in this same letter that it is very probable that that gold will remain in the vaults of the Denver mint, and here is his language.

Quoting his exact language he says:

> It is probable that the greater part of the gold coined at Denver mint will remain in the vaults of that institution, especially if the practice of paying depositors who desire it in eastern exchange be continued.

And if it should be sent to the East the consignees would pay the expense for shipping the gold coin and not the Government of the United States.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. LITTAUER. Provided it was shipped to a consignee.

Mr. KEIFER. Mr. Chairman, I ask that five minutes more time be granted to the gentleman from Colorado.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the gentleman from Colorado may be allowed five minutes additional time. Is there objection?

Mr. LIVINGSTON. Mr. Chairman, I will not object to unanimous consent with the distinct understanding that after the five minutes are exhausted we have a vote on this paragraph.

Mr. BONYNGE. Mr. Chairman, I do not want to take time under that condition, because the chairman of the Committee on Coinage, Weights, and Measures desires to be heard upon this proposition.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. BONYNGE. Then, Mr. Chairman, I will yield to the gentleman from Ohio, if he can take the five minutes.

Mr. SOUTHARD. Mr. Chairman, this motion applies merely to this mint, as I understand it.

The CHAIRMAN. Under the five-minute rule, according to the rules, it is not in order for a gentleman to yield his time to another.

Mr. KEIFER. But he is entitled to take it himself.

Mr. BONYNGE. Now, then, Mr. Chairman, it appears that there are at present in the vaults of the Denver mint the $33,000,000 in gold bars. In addition to the amount that is now in the vaults it is estimated that there will be deposited in that mint during every month of the next fiscal year two and a half millions in gold bars. It may perhaps be necessary to ship some of that gold to Philadelphia, because even if we get the amount that we are asking for by this amendment it would not pay for the wages of the necessary workmen to coin all the gold that will be deposited in the Denver mint during the next fiscal year. Some comment has been made upon the fact that we did not use all of the appropriation that was made to us for the fiscal year ending June 30, 1906. Of course we did not, gentlemen of the committee, because we were disappointed in not having the mint ready for coinage the 1st day of July, as we had anticipated, and now we are charged with having been negligent, as I understand the argument of the gentleman from New York, because we did not use up all the appropriation that the committee made to us last year. We feel, Mr. Chairman, that it is an evidence of economical management of the mint at Denver that notwithstanding the fact that this committee had appropriated for our use last year $115,000 the management of that mint at Denver was so careful of the interests of the Government that it did not employ all of the workmen it had au-

thority to employ and for whose wages appropriations were made.

Mr. LITTAUER. How else could you have spent any more money?

Mr. BONYNGE. Why we had authority of law to engage the workmen, but we did not engage them until their service were necessary.

Mr. LITTAUER. Authority of law under the direction of the Director of the Mint.

Mr. BONYNGE. Yes; but we did not employ workmen until the work was ready, which was on the 1st day of February.

Mr. LITTAUER. But you must admit that you had salaried officers drawing large salaries before there was any use for them.

Mr. BONYNGE. No; not before there was any use for them. There were officers appointed. The Secretary of the Treasury and Director of the Mint requested their appointment. Their services were necessary, for the reason that the force at the mint was being organized at Denver, and before we could commence the operations of the mint there had to be somebody in charge of the preliminary arrangements for the opening of the mint and in charge of the placing of the machinery and making all the necessary arrangements for its actual opening as a coinage mint. When the President sent those nominations to the Senate it was because, in his judgment, it was necessary that these men should be appointed at that time. They were appointed, but the workmen were not engaged until February of this year. Now, Mr. Chairman, I do not know there is very much more I can say upon this proposition. It resolves itself into the question whether or not Congress is now going to make use of the plant which it has erected and equipped at great expense. We have the gold, we have the workmen, and we have the machinery. We have the latest and most improved machinery, and it is a fact that can be demonstrated that we can coin at less expense at the Denver mint than we can coin elsewhere. I want now to call attention to one fact brought out by the gentleman from Texas. He contended if we make this increased appropriation for Denver we ought to cut down the appropriation for some other place. Let me call attention, Mr. Chairman, to the fact that the total amount appropriated last year for the four coinage mints was $976,000. If this committee should approve of this amendment and increase the amount to $150,000 and give us what I shall ask for contingent expenses, the total amount appropriated for the four mints will be $40,000 less this year than it was last year. So that it does not involve the question of an increase in the expenditure of the Government for the mintage that will take place at these various mints. I submit, Mr. Chairman, that no argument has been advanced whatsoever even to show that there will be a saving to the Government by refusing to give us the appropriation we ask for, and every consideration of economy, of good management, and of sound business principles in connection with the coinage of the United States is in favor of increasing the appropriation to the amount asked for by this amendment.

Mr. HILL of Connecticut. Mr. Chairman, I shall vote for the bill as it is, although I regret to see that there has been no change made with reference to the mint at New Orleans. We understood last year when this bill was under consideration that no more appropriations would be proposed for that establishment. It seems to me there are two questions, and only two, which should enter into the consideration of the maintenance and support of mints: First, the character of the coinage, and that over and above all others; second, the distribution of the money when coined. So far as the coinage is concerned, it is admitted by every other country, I believe, as well as by the Treasury officials of this country, that it would be more nearly perfect and less easily counterfeited if it was all done in one place, and that is where the best machinery and the best facilities are provided. There is no question but that would be in Philadelphia if that was the only consideration, but there is another. This country is one of large area, and the question of the distribution of the money when coined is one of great importance. We have multiplied assay offices; we have multiplied mints. We have discontinued one or two mints, and I know from the testimony taken before the Coinage Committee when I had the pleasure of being a member of that committee that it is the view of the Treasury Department that the wisest method of distribution would be to maintain the mints at Philadelphia, Denver, and San Francisco, and that all of the others, including the assay offices, should be ultimately discontinued in the interest of economy and good management, and that the Government should rely on these three. Waiving the question of excellency of coinage and considering only the cost of transportation and distribution, we should rely on these three for the future work of the Government, and it would be the best for all concerned.

Now, in my judgment, it would be a mistake to increase any of these appropriations. Acting in accord with what I have said to be the view of the Director of the Mint, I think it would be wise to cut off New Orleans. It was certainly understood in the debate last year here that the appropriation then proposed would be the last one that would be made for New Orleans, and that this year the bill would be confined to these three. I am going to vote even for the New Orleans proposition, Mr. Chairman, this year, in the hope and expectation that the desire of the officers of the Mint Bureau will be considered next year and that the general plan which they have laid out of maintaining the three mints, and these three only, will be provided for by the Appropriations Committee next year.

Let me show to the House just for a moment the unwisdom of the course we are pursuing now in regard to assay offices. I listened with much pleasure to the remarks of the gentleman from Tennessee [Mr. GAINES]. I want to say to him, as far as the establishment of these assay offices is concerned, in my judgment they did not have one particle of effect upon the accumulation of gold. But aside from that, the cost to the Treasury should be considered. Look at the expense for Carson City. They paid $10,435 expenses and earned $842. The gentleman from New York [Mr. PAYNE], who is, in my judgment, acting wisely in trying to reduce the expenses of unremunerative custom-houses, might well give his attention to this proposition as well. At Boise City we pay $13,000 to earn $3,000; in Helena, $23,000 to earn $4,000; in Charlotte, $4,000 to earn $1,000, and in St. Louis, $4,000 to earn $770. All of these assay offices should be dispensed with, and we ought to concentrate the assaying and all other work of this kind in these three mints in Philadelphia, Denver, and San Francisco, for it costs no more to transport the bullion than it does to ship the coin, and a concentration of the work would result in great saving to the Treasury.

Mr. LITTAUER. Mr. Chairman, I move that all debate on this paragraph and amendments thereto close in eight minutes.

Mr. HOGG. I would like to be heard.

Mr. LITTAUER. And that the gentleman from Ohio have five minutes and the gentleman from Colorado three.

The CHAIRMAN. The gentleman from New York moves that all debate on this paragraph and amendments close in eight minutes.

The question was taken, and the motion was agreed to.

Mr. SOUTHARD. Mr. Chairman, it seems to be a question, and the only question seems to be, whether this mint at Denver ought to be kept running throughout the year or not. They have a force there of about 51 workmen.

Mr. BONYNGE. One hundred and two now.

Mr. SOUTHARD. I thought it was about 50.

Mr. BONYNGE. It was that some time ago.

Mr. SOUTHARD. They have an accumulation of $33,000,000 of gold in the vaults. It is coming in at the rate of about $2,000,000 or $2,500,000 per month. The Director of the Mint states that there will be sufficient work there to keep the mint running during the year, provided the gold coming into that mint is coined there. Now, the question is, Ought it to be kept running or ought it to stop after the expiration of six months? He estimates (and I presume there is no question about it) that in order to keep that mint running full time it will take practically the whole of this amount.

Mr. LITTAUER. To keep it running at what rate? At its full capacity?

Mr. SOUTHARD. At the capacity at which it is now running.

Mr. LITTAUER. The gentleman said here that it only took $8,000 a month to pay the force as now organized.

Mr. SOUTHARD. I will say that the Director of the Mint stated to me yesterday that possibly this mint could be kept running during the entire year for the sum of $125,000, but that, in his judgment, the force would have to be somewhat curtailed in order to get through the year with that sum. So I assume that the Director has paid some attention to this matter and that the figures he has given are substantially correct.

We have four mints in this country—one at Philadelphia, one at San Francisco, one at Denver, and one at New Orleans. It has been stated time and again by the Treasury Department, by the Secretary of the Treasury, and by the Director of the Mint that we have more mints than are necessary; and yet not more than a couple of years ago the Committee on Coinage, Weights, and Measures, after listening to the arguments in favor of a new mint (those arguments being based largely on the question of transportation), were convinced that it would be economy for the Government to establish a new mint at the city of Seattle, in the State of Washington. I do not think the chairman of the committee was convinced, but I say that the

Committee on Coinage, Weights, and Measures seemed to have been convinced, because they reported favorably a bill providing for the establishment of an additional mint at Seattle. The argument was that the Government would save a large amount in transportation; that it costs practically $2 per thousand to transport gold or bullion to and from the mints where it is coined. Now, I apprehend that gold and silver are a good deal like wheelbarrows—that they go where there is a demand for them—and that there is very little in this question of transportation. It costs as much in this case to transport the coin as it does to transport the bullion, and, I take it, practically as much to transport the bullion as it does to transport the coin; but I am getting away from the question. The question is simply this: Should this mint be kept running the whole year through, or should it be stopped after the expiration of six months? The Director of the Mint believes it should be kept running the entire year, and why? One of the reasons he gives is this: You have a large force of skilled men there, employed in coining the gold and silver. If you stop that mint, you scatter your men, you lose them, and when you start your mint again you have got to start with an inferior force; you have got to go to the trouble of collecting your men and organizing them anew each year. And, further, when the mint lies idle a part of the time, your machinery deteriorates; so, on the whole, he believes it to be economy and a wise proposition to keep this mint running throughout the year. That is all I have to say with reference to this question.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GROSVENOR having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had agreed to the amendments of the House of Representatives to the bills of the following titles:

S. 5204. An act to authorize the construction of a bridge or bridges across the Yellowstone River in Montana; and

S. 5211. An act to authorize the construction of a bridge across the Snake River, at or near Lewiston, Idaho.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 4825. An act to provide for the construction of a bridge across Rainey River, in the State of Minnesota; and

S. 536. An act amending the act of August 3, 1892, chapter 361, entitled "An act fixing the fees of jurors and witnesses in the United States courts in certain States and Territories" (27 Stat. L., p. 347).

The message also announced that the Vice-President appointed Mr. BACON as one of the conferees on the bill (S. 1345) to provide for the reorganization of the consular service of the United States, in place of Mr. MORGAN, excused from further service, on his own request.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

Mr. SIBLEY. Mr. Chairman——

The CHAIRMAN. The gentleman from Colorado [Mr. HOGG] is entitled to the floor for three minutes.

Mr. HOGG. Mr. Chairman, and gentlemen of the committee, it is not my purpose to take any considerable time in discussing this question. I have been very much interested in the plea that has been made here for Philadelphia. I understand that one of the principal reasons given why this should be done is that the mint should be where the money is to be distributed. Now, I can well conceive, from the investigations that are going on, why in that view of the case Philadelphia should need a mint. [Laughter.] And also why our friends from New York are so anxious to have a Government mint where the money may be distributed. But I am quite sure that after these investigations are concluded there will not be so much necessity for the distribution of money there. [Laughter.] But I am inclined to think that all this difficulty that we are now experiencing as to the Denver and the Philadelphia mint, is hardly a proper subject for discussion in connection with this question. There is only one thing to determine. The Government has seen fit to establish this mint at Denver. It has paid out a million and a quarter of dollars for that purpose. Now, the only question left is, Shall the mint be operated? If so, how much money will it take to operate that mint?

I have a list of these statements as to the different estimates. There is only one question left untouched, I think, and that is as to the monthly pay roll that is necessary to run the mint as it is being run at the present time. I have a statement here from the melter of the mint, who states that the present pay roll is in excess of $10,000 a month. That will be required to carry on the operations of the mint under the present force, and with the increased activity of the mint additional employees will have to be used. Ten thousand dollars a month would be $120,000 a year. This committee has seen fit in their wisdom to allow $75,000 for the purpose of carrying on the business of that mint. I do not think this is a matter, gentlemen, that ought to be determined by locality. I think, as my friend has stated, this mint ought to be operated, being placed as it is, in the region where gold is produced, where a saving can be made to the Government as to transportation.

Mr. SIBLEY. Mr. Chairman——

The CHAIRMAN. The Chair will state that the gentleman from Ohio, being on his feet, asked for five minutes and the gentleman from Colorado three minutes. The gentleman from New York moved, and the committee agreed to the motion, that debate close at the end of eight minutes.

Mr. LITTAUER. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania be allowed to continue for five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the gentleman from Pennsylvania be allowed five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SHACKLEFORD. Mr. Chairman, are we proceeding by unanimous consent?

The CHAIRMAN. Under the motion which was to close debate the debate was exhausted, and the gentleman from New York has asked unanimous consent that the gentleman from Pennsylvania may be allowed five minutes.

Mr. SIBLEY. Mr. Chairman, it is unfortunate that the question of locality should have entered into the issue to any extent. It seems to me the question should be this: Are the facilities already existing, whether it be at San Francisco, Philadelphia, New Orleans, or Denver, adequate to all the necessities of the Government in the way of coinage? It is held by the Director of the Mint that Philadelphia is already equipped, that it has the perfected machinery, it has a trained corps of experts, and that there is not enough business to keep the labor of the Philadelphia mint employed.

Colorado is singularly fortunate in having as its Representatives a solid delegation that perhaps is unrivaled by any sister Commonwealth. If there are three stronger men from any one State where there are but three Representatives from that State, I have never seen them. [Laughter.] Their persuasive eloquence was such the other day that they took away from Philadelphia the coinage of subsidiary coin, duplicating machinery, entailing expense for other facilities at a cost more than ample for the coinage, more than ample for all the subsidiary minor coin of the country; and yet, my friends from Colorado became so eloquent, their powers of persuasion were such that when it came to a vote there were only three Members of the whole House who voted against it. We from Pennsylvania did not dare to stand up against their persuasive eloquence.

Mr. BONYNGE. If the gentleman will allow me, I want to say that the gentleman is mistaken in saying that we took away the coinage of subsidiary coin.

Mr. SIBLEY. Well, minor coinage.

Mr. BONYNGE. Neither did we take away the coinage of the minor coin from Philadelphia; we simply amended the law so that we might take away some of the minor coin from Philadelphia, some of the pennies and nickels, and coin them at Denver, while they might coin some at Philadelphia.

Mr. SIBLEY. That is merely duplicating. My friend from Colorado is an example of what I was saying about persuasiveness of the Members from Colorado. We recognize Denver as a beautiful city, none more beautiful. It has as many fine homes as any city on this continent. I am sure that our regard for the Representatives from that State is such that it would lead us to expend some considerable portion of the Government's revenues in the duplication of machinery and processes already more than adequate and more than ample for the purpose of the coinage of the United States. Therefore, if I vote against this amendment this time, it will be because I have recovered from the eloquence with which the gentlemen stampeded this House on a recent occasion, when they took the subsidiary coinage, or that portion of it which they will have, from Philadelphia, under the measure which passed this House. I believe the committee has fairly considered this, and I hope the House will stand by the action of the committee.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Colorado.

Mr. GILBERT of Kentucky. Mr. Chairman, I ask unanimous consent that the amendment may be again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk read the amendment.

The question was taken; and on a division (demanded by Mr. LITTAUER) there were—ayes 86, noes 56.

Mr. SIBLEY. I demand tellers, Mr. Chairman.

Tellers were ordered; and the Chair appointed as tellers the gentleman from Colorado [Mr. BROOKS] and the gentleman from New York [Mr. LITTAUER].

The House again divided; and the tellers reported that there were—ayes 82, noes 61.

So the amendment was agreed to.

The Clerk read as follows:

For incidental and contingent expenses, including melter and refiner's wastage and loss on sale of sweeps arising from the manufacture of ingots for coinage and wastage and loss on sale of coiner's sweeps, $30,000.

Mr. BONYNGE. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

In line 12, page 69, strike out the word "thirty" and insert in lieu thereof the word "fifty."

Mr. LITTAUER. Mr. Chairman, I will state that that is a necessary amendment in order to take care of the expenses that the increased amount for wages and workmen will produce.

The CHAIRMAN. The question is on the amendment.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

Mint at New Orleans, La.: For superintendent, $3,500; assayer, melter and refiner, and coiner, at $2,500 each; assistant assayer, assistant melter and refiner, and assistant coiner, at $1,900 each; chief clerk and cashier, at $2,000 each; bookkeeper, $1,600; assistant cashier, $1,200; private secretary to superintendent, $900; one clerk, $1,200; one messenger, $900; one elevator conductor, $800; in all, $27,300.

Mr. SOUTHARD. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 69, strike out line 13 and all following, down to and including the word "dollars," in line 5, page 70, and in lieu thereof substitute the following:

"Mint at New Orleans, to be hereafter conducted as an assay office: For assayer in charge, $3,000; assistant assayer, $1,500; one clerk, $1,500; in all, $5,500.

"For wages of workmen and watchmen, $7,500; for contingent expenses, $3,000."

Mr. CRUMPACKER. Mr. Chairman, I reserve the point of order to that amendment until it is explained.

The CHAIRMAN. The Chair will call the attention of the gentleman from Ohio to the fact that his amendment is to strike out two paragraphs which have not yet been read. The gentleman can move to strike out one paragraph, which has already been read, and give notice that he will move to strike out the other.

Mr. SOUTHARD. Mr. Chairman, the purpose of this amendment is to strike out that portion of the bill described in the amendment and yet to preserve——

The CHAIRMAN. The Chair understands the gentleman from Indiana to reserve the point of order?

Mr. CRUMPACKER. Yes.

Mr. SOUTHARD. And yet to preserve the situation there as an assay office. It is possible that there would be some work for an assay office at New Orleans. There is very little to commend it as a mint. The earnings of the institution last year, my recollection is, were something like $2,000, and the total coinage of the mint amounted to something over $2,000,000. The appropriation for the maintenance of this mint year after year has been about $90,000 for this small amount of coinage. Year after year the Secretary of the Treasury and the Director of the Mint have recommended the discontinuance of the mint operations at New Orleans until, evidently tired and weary, they have ceased to mention it altogether.

Mr. LITTAUER. The gentleman is aware that the provision for a mint at New Orleans went out two years ago in the House.

Mr. SOUTHARD. I was about to call attention to that. Two years ago the legislative appropriation bill contained three paragraphs, a copy of which is embodied in this amendment which I have just sent to the Clerk's desk. This was contained in the legislative appropriation bill of two years ago, and my recollection is that the provision remained in the bill, went to the Senate, and was stricken out in the Senate, and the old provision continuing the mint was restored to the bill. So that there may be no misunderstanding about it, I will read that provision from the bill of two years ago:

Mint at New Orleans, to be hereafter conducted as an assay office: For assayer in charge, $3,000; assistant assayer, $1,500; one clerk, $1,500; in all, $5,500.

For wages of workmen and watchmen, $7,500; for contingent expenses, $3,000.

The report of the Director of the Mint for the year 1905 shows that the standard weight and value of gold and silver coin deposited at New Orleans, La., during the fiscal year 1905 was $1,725,000. There were purchased over the counter eight hundred and forty-six and a fraction standard ounces of uncurrent domestic gold coin; in all, valued at about $15,000. Now, I submit, Mr. Chairman, that it is not economy, it is not good business, it is contrary to the recommendation of the Secretary of the Treasury and to the recommendations of the Director of the Mint, and contrary to good business judgment, to maintain a mint at New Orleans.

Mr. LITTAUER. Mr. Chairman, I would like to ask the gentleman a question. He says it is contrary to the recommendations of the Secretary of the Treasury.

Mr. SOUTHARD. I say the director of the mint, and, if I am properly advised, the Secretaries of the Treasury, time and again have recommended the discontinuance of mint operations at New Orleans.

Mr. LITTAUER. I can give the gentleman just an absolute fact, and that is that when this item was so amended in the bill that passed this House as to make provision for an assay office instead of a mint it went over to the Senate, and while under consideration there the Secretary of the Treasury recommended to me, one of the conferees, that it be continued as a mint.

Mr. SOUTHARD. I will say my recollection is that before the Committee on Coinage, Weights, and Measures the director of the mint has stated time and again that it was not profitable, and that, in his judgment, it would be advisable to discontinue the mint at New Orleans. Now, I will not say that I have had any direct communication with the Secretary of the Treasury in reference to it, but the argument has been that we have a superfluity of mints; that we have more mints than we ought to continue in operation. If that is so, here is a mint that is being conducted at a loss, at an extravagant expenditure, considering the amount of work done.

Mr. CRUMPACKER. Mr. Chairman, I have no special interest in the mint at New Orleans, but from what is said by the gentleman from New York who has charge of this bill, if the mint should be, by action of the House, converted into an assay office, it would in all probability be restored at the other end of the Capitol, and I feel this way about it, that it is, perhaps, a matter of too much importance to be taken up and disposed of under the five-minute rule in the Committee of the Whole. The Committee on Appropriations, having investigated this question exhaustively, and, of course, having before it the history of the mint at New Orleans, reports the appropriation for it and makes no recommendation for its discontinuance or conversion into an assay office, although the bill contains numerous items of new legislation. Therefore, Mr. Chairman, I shall insist upon the point of order and I think it is well taken, because the amendment expressly provides for the conversion of the mint into an assay office. It provides for a superintendent of the assay office at an increased salary, etc.

Mr. SOUTHARD. Mr. Chairman, I desire to be heard upon the point of order.

Mr. GAINES of Tennessee. Mr. Chairman, I desire to be heard.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard upon the point of order?

Mr. SOUTHARD. Yes. The employees are precisely the employees as those mentioned in the present bill. Their salaries are not increased—perhaps I am wrong about that. The amendment simply reduces expenditures, it may change the name in the bill of an employee, but it is simply reducing the amount appropriated and does not necessarily change existing law. The effect of it would not be to change existing law.

Mr. CRUMPACKER. Let me ask the gentleman——

Mr. SOUTHARD. The effect would be simply to reduce the amount of appropriation by reducing the number of employees without changing their salary.

Mr. CRUMPACKER. Now, a suggestion, if the gentleman pleases. The bill provides for a superintendent at the mint at New Orleans, La., at $3,500?

Mr. SOUTHARD. Yes.

Mr. CRUMPACKER. And the amendment provides for a superintendent of assay office, I believe, at $3,500?

Mr. SOUTHARD. For an assayer in charge.

Mr. CRUMPACKER. At $3,500. That is a new office altogether. The law says that the superintendent of the mint shall be entitled to a salary of $3,500 a year, but now it is proposed to create another office with different duties and functions—that is, an assayer in charge, and provide that he shall be paid $3,500 a year for different duties, different responsibilities, and different functions. I think there can be no doubt it is a change of existing law.

The CHAIRMAN. The Chair is ready to rule. The Chair will state to the gentleman from Ohio that he will have to move

to modify his amendment so as to confine the striking out to the paragraph which has been read, which embraces the part between lines 15 and 24, inclusive, on page 69. The gentleman can give notice that if his amendment shall be adopted he will move to strike out the other two paragraphs.

Mr. SOUTHARD. Very well.

The CHAIRMAN. The Chair understands the amendment to be so modified, and without objection it will be so considered. The paragraph proposed to be amended appropriates for the mint at New Orleans and for a superintendent of the mint and for refiners, coiners, etc. The amendment provides that the mint at New Orleans shall be hereafter conducted as an assay office. That seems to the Chair to change the purpose of the establishment at New Orleans as now defined by law. The proposed amendment then provides, not for a superintendent of the mint, but for an assayer in charge, a different office, the salary being the same, possibly the person filling the office being the same, but apparently an office and a title different from anything known to the existing law governing this mint. It seems to the Chair that this is a change of existing law upon an appropriation bill, in violation of clause 2 of Rule XXI, and that the point of order must be sustained.

The Clerk read as follows:

For wages of workmen and adjusters, and not exceeding $10,920 for other clerks and employees, $42,800.

Mr. SOUTHARD. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Ohio moves to strike out the paragraph. Does the gentleman desire to be heard?

Mr. SOUTHARD. For just a moment. It seems to me that the location of this mint, the cost of its maintenance, the fact that no gold and silver is actually tributary to New Orleans except, as I understand it, a little which comes from Central America, and the fact that its discontinuance has been recommended by those who are best able to judge of its value as a mint, ought to induce us to cut out these expenditures and save a good portion of this $90,000 per annum which it costs to maintain it. I am advised that most of the metal which is coined into money is shipped from localities at the expense of the Government from the localities where it is produced to the city of New Orleans for coinage; that this expense, as I have already said, is borne by the Government; that its operations are unduly and unnecessarily expensive, when this same work can be carried on at the other mints at greatly reduced cost. Now, we have been talking a great deal about reducing expenses. Here is an opportunity to reduce expenses, to economize, and I want to see how many Members present are ready to vote to economize when they have a real opportunity.

Mr. LITTAUER. Mr. Chairman, if the amendment of the gentleman from Ohio should prevail, the mint at New Orleans would be discontinued, nor would there be any assay office there. The amendment would entirely do away with this establishment. Now, I agree with him that the mint at New Orleans is an extravagance, but no more so than the mint at Denver. The mint at New Orleans is not needed; the mint at Denver never was needed, and never ought to have been constructed if simply economical interests were considered.

Mr. SOUTHARD. We have a mint at Denver.

Mr. LITTAUER. We have a mint at Denver and we have a mint at New Orleans. I do not see why we should not give a little gratuity, so to speak, to one section of the country as well as to the other. I believe an assay office ought to be at New Orleans. I believe, Mr. Chairman, that that section of the country should be served as well as the section about St. Louis, where there is also an assay office.

Mr. SOUTHARD. Will the gentleman allow me to ask him a question?

Mr. LITTAUER. Yes.

Mr. SOUTHARD. Is not the percentage of cost as compared with the product at New Orleans out of all proportion when compared to any other mint?

Mr. LITTAUER. I used to think so; but the little examination I have given to this subject this year makes me feel to the contrary. We found at New Orleans this year there were 4,688,000 pieces coined, at a total expense of $89,000, and at San Francisco there were 26,450,600 pieces coined, at an expense of $402,000. So that the difference is not a great amount in the actual proportionate cost. There are incidental expenses, however, in connection with the New Orleans mint, in shipping bullion there to be coined and shipping the coins back again, just as I believe there are expenses in connection with the Denver mint. But it seems to me that we must have, or we ought to have, an assay office at New Orleans, and that we should not cut this matter out entirely. With the opening of the Panama Canal at some future day, we may then be receiving a larger amount of silver and perhaps gold than now comes to New Orleans.

Mr. SOUTHARD. I will call the attention of the gentleman to the fact that we already have an assay office at St. Louis, which is running, as I understand, at an actual loss.

Mr. LITTAUER. We have a number of assay offices running at an actual loss, and they ought to be cut out just as much as this St. Louis office.

Mr. SOUTHARD. That negatives the necessity for so many assay offices as we now have.

Mr. LITTAUER. And the original necessity of as many mints as we now have. We could cut out the one the gentleman supported a minute ago as well as we could leave out this one.

Mr. SOUTHARD. Does not that rather negative the gentleman's statement that we ought to have an assay office at New Orleans?

Mr. LITTAUER. No; I think the amount of bullion coming in from Mexico and coming in from South America by the shipping that finds its port at New Orleans demands an assay office there.

Mr. SOUTHARD. For the operating and refining the charges amount to only about $2,000 at St. Louis.

Mr. LITTAUER. It shows that there is not a great amount of work there.

Mr. GAINES of Tennessee. Mr. Chairman, the same argument I made a few minutes ago as to the Denver and San Francisco mints applies with equal force to the New Orleans mint. I have no interest in any one of these mints, save that any private citizen should have, except as my duty here as a Member of Congress. I think I alluded to New Orleans in the course of what I said as to the other two mints.

For nine years the gentleman from Ohio [Mr. SOUTHARD] knows that some one has been trying to destroy by *strangulation—withholding appropriations*—the New Orleans mint. The gentleman from Ohio says that the Director of the Mint has time and again recommended the discontinuance of this mint at New Orleans. The gentleman from Ohio has been chairman of the Coinage Committee, that has that matter in charge, for nine years, and yet no sort of a bill has ever been reported to this House to repeal the law that established the New Orleans mint. Not one. That would have been the regular and proper way to discontinue this mint. During this entire session of Congress the gentleman from Ohio [Mr. SOUTHARD] has been trying to foist upon the American people the metric system, which would cost the manufacturers and people of this country untold millions and cause them great financial distress.

Instead of following the recommendation of the Director of the Mint on the New Orleans mint, the gentleman has spent his time and that of his committee in this metric matter, which no Director of the Mint has ever recommended to Congress, and no one wants but a few interested, harping theorists. The gentleman has neglected the recommendation of the Director of the Mint to close the New Orleans mint. He has neglected his duty as the chairman of that great committee in that respect, and now he comes here and makes an attack on the New Orleans mint, in the face of the fact that the gentleman knows that this House and the Senate and the President of the United States have approved appropriations time and again for the continuation of that mint, and in spite of the fact that he knows that the Republican party and the Democratic party and the Republican President, and the great Secretary of War are trying to open up a "ditch" down here across the Isthmus of Panama which will make it absolutely necessary for us to keep this mint in operation at New Orleans.

Mr. SOUTHARD. Where is the bill to which the gentleman refers?

Mr. GAINES of Tennessee. The New Orleans mint is what you are trying to strike out of this bill. Why didn't you strike out the "mint at Carson City, Nev.?"

Mr. SOUTHARD. I thought the gentleman referred to some other bill.

Mr. GAINES of Tennessee. The gentleman refused to strike out of this bill the item "Mint at Carson, Nev.," yet he jumps on the mint at New Orleans with all his might, and tries to smother it by taking this money away from it. Mr. Chairman, if the New Orleans mint was ever a necessity (and the gentleman knows the Republican and Democratic parties have perpetuated it) *it certainly is a necessity now that we are building the Panama Canal*, and the gentleman from New York [Mr. LITTAUER] said only a moment ago we will need this mint at New Orleans. Only a few minutes ago the gentleman from Georgia [Mr. HOWARD] said to me that his banks were now complaining about having to pay freight on silver dollars. So are mine.

Mr. SOUTHARD. Will the gentleman yield?

Mr. GAINES of Tennessee. Please excuse me a moment. I will ask the committee to give you time.

The CHAIRMAN. The gentleman declines to yield.

Mr. GAINES of Tennessee. Do not interrupt me, please.

Mr. SOUTHARD. Does not the gentleman know that there are no mint operations carried on at Carson?

Mr. GAINES of Tennessee. Then, why don't you strike out the words "mint at Carson, Nev.?" It has misled me. The gentleman swells at a gnat and swallows a giraffe.

Now, Mr. Chairman, only a few days ago, in the so-called "wisdom" of this committee, they put the onus on the banks to pay the transportation charges on silver coin sent out through the country. The banks all over the country are complaining. I opposed this change, and have for nine years done so. Is it not the height of wisdom to relieve the banks and the people of the burden of having to pay the transportation charges on that money by having as many mints as we can, of course economically operated and *wisely located and administered*, to lessen the oppressive rates of the express companies? With the law repealed which provided for the free transportation of the silver dollars and small coins the gentleman now wants to smother the mint at New Orleans that is to supply the South and Southwest and our Panama demand; yet I understand he voted a few moments ago to continue the mint at Denver. So did I. A healthy public policy demands that that mint at San Francisco should be maintained, and if that is so, then certainly we ought to continue this mint at New Orleans, at the very head of the Panama Canal, where the Government will send its money by the shipload, practically, for years to come—yea, long after we have erected a shaft almost as high as the clouds and as white as alabaster in memory of the impartial and distinguished Chairman of the committee, who stands smiling, with gavel in hand, ready to call me down.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. MEYER. Mr. Chairman, the proposition of the gentleman from Ohio [Mr. SOUTHARD] to strike out the paragraph providing appropriation for the New Orleans mint and to reduce that establishment to a mere assay office is by no means a new one. Similar motions have been made time and again on the floor of this House. Yet in every Congress since I have had the honor to be here they have been rejected, and when on one occasion this House refused to do so, the Senate restored the provision and it was accepted here. It is true that since the final coinage of the bullion purchased under the Sherman law the work of that mint has diminished considerably, yet a great deal has been done, as the report will show. A great deal of bullion comes to that mint from some of the Central and South American States, from Mexico, and elsewhere, and as it is the only mint in the South affording facilities to its tributaries, the purpose of the Appropriations Committee in incorporating it in this bill ought to be sustained. I see no reason why the magnificent machinery which has been installed there, and which does its work more cheaply, I have no hesitation in asserting, than almost any other mint in this country, should not be operated.

The silver and gold from this mint at New Orleans can be distributed at a much cheaper cost than any other mint in this country. At present, while the operations may not be as extensive or as large as in some other mints, I think it is due to the South and that section of the country to maintain the only establishment of the kind that they have. The same arguments that have been made here to-day have been made ever since I have been in Congress and in the years prior to it.

This mint was established in 1835, and since that period, with few intermissions, has usefully contributed to the coinage of our metallic money.

Mr. SOUTHARD. Will the gentleman yield?

Mr. MEYER. Certainly.

Mr. SOUTHARD. If we have a superfluity of mints, how long would the gentleman think we ought to maintain a mint which employs fifty-one people, which earns only about $2,000, and the total coinage of which only amounts to about $2,000,000 a year?

Mr. MEYER. I do not think these figures apply to the establishment in question—its work during the past few years shows a far greater aggregate than this. Further, I beg to call the gentleman's attention to his own bill and report in which he recommends this mint as one of those to coin the subsidiary coins and nickels—how can this be done if abolished?

Indeed, in my judgment, we ought to maintain such a mint as long as there is any work for it to do. Some years perhaps, it may not be as remunerative as others. As has been said by the gentleman who preceded me, the completion of the construction of the Panama Canal will place us in closer intercourse with the Central American states, and in many of these our citizens have been given mining concessions, and in a short time they expect to produce a large quantity of gold and silver, which will most readily find its way to the Gulf cities.

Mr. SOUTHARD. Is it not a fact that the most of the metal required to keep it running is shipped from Omaha, or from up in that locality, at the expense of the Government?

Mr. MEYER. The trade with the South American republics, with the West Indies, and above all with Mexico, is to us a matter of gravest consequence. New Orleans is the nearest large city to grasp this trade. Her connections by rail and steamer, both inland and with the countries lying south of her, are superior. The influx of the precious metals from these countries should be encouraged, and in answer to the gentleman's question I will say I find that the greater part of the metal used has been shipped to the New Orleans mint from Colombia, Honduras, Nicaragua, and some other South American states during the last year. It is quite likely that the volume of that will increase.

Now, it has been stated with some force and truth that we could do all the coinage required at this time in fewer mints. That may be true. The mint in Philadelphia might be able, perhaps, to do it all for the present year, possibly for some years to come; but that is no good reason why the mints at San Francisco, Denver, and New Orleans should be abolished and all the work concentrated at that one place. It is not consistent with the policy which we should pursue in this country, and I submit, Mr. Chairman, that it would be unfair and unpatriotic to abolish this institution when there are others that are just as little needed that are to be continued.

Indeed, if we had no mint at New Orleans, it would be our duty to establish one capable of meeting all the wants for a commerce which is growing daily to a degree surpassing every other nation.

To sum up briefly, I urge the reasons why the New Orleans mint should be maintained to be—

First. It is the only mint south of Mason and Dixon's line.

Second. It is a distributing point for the South and Southwest by numerous railroads and a grand water system, and distributed at a smaller cost to the Government than any other.

Third. Its workmanship compares favorably with the other mints, and its coinage is as economical, and frequently more so.

Fourth. It is central to a large silver-using section of the Union.

Fifth. The building and square of ground were a donation from the city of New Orleans to the General Government, to be used as a mint, and as such has been regarded for over seventy years as a fixed public institution.

Sixth. With the enactment into law of the bill introduced and favorably reported by the gentleman from Ohio [Mr. SOUTHARD], chairman of the Committee on Coinage, Weights, and Measures, authorizing the coinage of subsidiary coins and nickels by this mint, it operations will necessarily be much enlarged and demonstrate again its usefulness as a permanent institution. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For incidental and contingent expenses, including new machinery and repairs, expenses annual assay commission, melters' and refiners' wastage, and loss on sale of sweeps arising from the manufacture of ingots for coinage, and wastage and loss on sale of coiners' sweeps, and purchase not exceeding $500 in value of specimen coins and ores for the cabinet of the mint, $75,000.

Mr. JOHNSON. Mr. Chairman, I move to strike out the last word. I would like to inquire of the gentleman having the bill in charge if the Committee on Appropriations did not go carefully into the question of the amount necessary to be appropriated to carry on the mints of the country?

Mr. LITTAUER. We certainly did.

Mr. JOHNSON. Then does not the gentleman think that inasmuch as the amount provided in this bill for Denver has been increased by $75,000 it would be proper to reduce the amount for Philadelphia by $75,000?

Mr. LITTAUER. I do not, and for this reason: I believe it should be left with the Director of the Mint to spend the money for wages for workmen carrying on the coinage where he believes it can be done at the best advantage. I do not believe there will be in the year 1906–7 enough work to take up more than two-thirds of the amount appropriated.

Mr. JOHNSON. This money is appropriated in a lump sum?

Mr. LITTAUER. A lump sum to be paid out for work actually performed for per diem wages.

Mr. JOHNSON. And if they have not work enough to use up the money, the unused fund will lapse into the Treasury?

Mr. LITTAUER. It will lapse back into the Treasury.

Mr. JOHNSON. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For wages of workmen and adjusters, and not exceeding $37,500 for other clerks and employees, $150,000.

Mr. HAYES. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 71, line 16, strike out the words "thirty-seven" and "five hundred" and insert in lieu thereof, before the word "thousand," the word "forty."

In line 17 strike out the word "fifty" and insert in lieu thereof the word "sixty-five."

Mr. HAYES. Mr. Chairman, I desire only to say that the committee has seen fit in this item to cut down the estimates for the mint in San Francisco $15,000 for adjusters, coiners, and workmen. I just desire to call the attention of the committee to the fact that no cut has been made in the estimate of the coiners, adjusters, and workmen for the mint at Philadelphia. Yet the gentleman from Pennsylvania, a day or two ago, admitted that the mint in Philadelphia was not running. The mint in San Francisco is running and has plenty of bullion to run on during the whole of the year, and I hope that the committee will amend this bill in accordance with the amendments I have offered, so as to meet the estimates of the Director of the Mint.

Mr. LITTAUER. Mr. Chairman, the amendments offered by the gentleman from California [Mr. HAYES] are in accordance with the estimate by the Director of the Mint for provision for the coming year. The appropriation for the current year was $10,000 more than the gentleman proposes in his amendment. The appropriation for the mint at Philadelphia was reduced from $450,000 to $400,000, and in addition thereto we were advised that during the present year, when $450,000 was allowed for Philadelphia, the workmen had to be laid off for two months. With an appropriation of $400,000 they probably would have to be laid off three months. We felt, under such circumstances at Philadelphia, that there should be a proper reduction also at San Francisco and at Denver. We felt that the reduction of the estimates from $175,000 to $165,000 was hardly a proper proportion and recommended a sum that we felt was liberal and fair and a sum that we believe as large or even larger than could be expended for the coinage that would take place during the coming year.

Mr. KAHN. Mr. Chairman, the Book of Estimates shows that the estimate for the Philadelphia mint for this year was $400,000.

Mr. LITTAUER. That is for next year.

Mr. KAHN. And that the appropriation for last year, closing with the 30th of June of this year, was $450,000. In other words, the Director of the Mint estimates that $400,000 would be required this year, and the committee in the bill appropriated the $400,000. In a speech in this House a few days ago the gentleman from Pennsylvania, in speaking of the Philadelphia mint, admitted they were not working there with a full force of men, admitted that they had practically nothing to do. The mint in San Francisco is not in that condition. The mint at San Francisco is running with a full force of men.

Mr. LITTAUER. Why is it not in that condition?

Mr. KAHN. Because they have the gold bullion there to coin.

Mr. LITTAUER. That gold bullion can be sent to Philadelphia just as well as it can be used in San Francisco. Operations are going on at San Francisco simply because the Director of the Mint declares such should be the case.

Mr. KAHN. Not at all. San Francisco is closer to the Alaskan gold fields and to the gold fields of the world, and the gold naturally drifts to San Francisco.

Mr. LITTAUER. Oh, it does not have to be coined there.

Mr. KAHN. It should be, because it is closer. Otherwise it probably would go into other countries altogether. It might be sent into Canada and sent across the country and coined in London.

Mr. LITTAUER. You could ship the bullion east just as well as you could ship the coin east.

Mr. KAHN. That would be an expense to the producer of the bullion.

Mr. LITTAUER. Not at all; the Government pays that expense.

Mr. KAHN. I do not so understand it at all.

Mr. LITTAUER. And I am positive of the fact.

Mr. KAHN. Nevertheless the committee has not seen fit to reduce the estimates in Philadelphia, and it has seen fit to reduce them in San Francisco. There is no reason for the reduction of the estimates in San Francisco, and I hope the amendments will pass.

The CHAIRMAN. Without objection, the amendments offered by the gentleman from California will be considered together. [After a pause.] The Chair hears no objection. The question is on agreeing to the amendments.

The question was taken; and on a division (demanded by Mr. KAHN) there were—ayes 24, noes 44.

So the amendment was rejected.

The Clerk read as follows:

Assay office at Helena, Mont.: For assayer in charge, $2,250; chief clerk, $1,800; clerk, $1,400; in all, $5,450.

Mr. JOHNSON. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. JOHNSON. To offer an amendment to that paragraph. I move to strike out, in lines 24 and 25, page 72, the words "for assayer in charge, $2,250."

The CHAIRMAN. Does the gentleman desire to be heard on the amendment?

Mr. JOHNSON. Yes. I see in the evidence taken before the Committee on Appropriations that the so-called "assayer" is not in fact an assayer.

Mr. TAWNEY. Is not that the evidence with reference to Boise, Idaho? Is the gentleman not mistaken in the place?

Mr. JOHNSON. No. That testimony came out in the Idaho case, but the appropriation bill has dropped the assayer at that office. This is the first assay office where the assayer has been provided for. The testimony of the Director of the Mint is to the effect that the chief clerk was really the man in charge, the responsible man, the man who really was the assayer. He says that the person who wears that title is appointed by the President, and is such gentleman as some Representative or Senator may want to provide a position for.

In other words, the so-called assayer is an ornamental gentleman who does not do any assaying, but his subordinate, chief clerk, or assistant, by whatever title he is called, is the man who does the work. I see the Committee on Appropriations very wisely at these other assay offices which we have just passed have provided that the chief clerk or assistant assayer shall be a melter and the man in charge. In other words, you have dispensed with the office of the assayer, as such, at all these other offices.

Mr. LITTAUER. I hardly think that part of the gentleman's statement is correct. There is an assayer at Charlotte, N. C.——

Mr. JOHNSON. He is something else. He is an assayer and melter. In other words, he is the first man and the second man, too. If you had provided an assayer simply the second man there would have been called a melter; but you make one man fill both places. This is the first place that the committee have provided for an assayer simply and the Director of the Mint states, on page 305 of the testimony, that these men are merely ornamental gentlemen appointed at the instance of some Representative or Senator, and that the next man below them really does the work.

Mr. LITTAUER. And that was a general remark that applied to all these assay offices.

Mr. JOHNSON. I think so.

Mr. LITTAUER. But the gentleman is mistaken, I think, in one statement, and that is this: Where there are other duties in connection such duties may call for a practical man. Now, then, look at the item for assay office at Boise, Idaho. For assayer, who shall also perform the duties of melter, $2,000. Now, that individual was the very one toward whom the remarks of the Director of the Mint were directed, to that very individual who also performs the duties of melter.

Mr. JOHNSON. I understand; but if the gentleman pleases, the Director of the Mint makes a statement on page 305 which bears out my statement. It is true that you were interrogating him about that particular office.

Mr. LITTAUER. And the particular man.

Mr. JOHNSON. But he stated the broad proposition that the men who wore the title not only at that office, but at all of them, were simply ornamental gentlemen, or language to that effect.

Mr. LITTAUER. I suppose it applied to every assay office where the head man is not a practical working assayer, but the second or third official, considered by the amount of compensation paid; but the head of the establishment is the responsible man. He, I believe, is a Presidential appointee, and he is responsible for whatever takes place there even though his title be a wrong one.

Mr. JOHNSON. I want to ask the gentleman a question.

Mr. LITTAUER. Yes.

Mr. JOHNSON. Have you not met the difficulty at these other assay offices by simply making the head man a melter?

Mr. LITTAUER. No; that does not change the status of affairs at all. That man called an "assayer," who shall also perform the duties of melter, I do not believe performs any such work as head of the institution, because you will bear in mind that all these other assay offices, beginning with Boise, Idaho, which has an assayer who shall perform the duties of melter; next at Charlotte, N. C., assayer and melter; next at Deadwood, assayer in charge, who shall perform the duties of melter; next at Helena, assayer in charge; but the remark of the Director of the Mint, referred to by the gentleman from South Carolina, on page 305, contains this: "The man who wears the title of assayer is not the assayer in any of these offices." This is plural and covers all offices to which I referred. Well, it seems that Helena is the only place where this assayer, or the man who carries the title of assayer, has not some other duty to perform, according to the designation of the statute.

Mr. JOHNSON. Well, then, as a matter of fact——

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. JOHNSON. Mr. Chairman, I would like to have a minute more, because this is a business proposition.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to continue his remarks for five minutes.

Mr. LITTAUER. I would ask unanimous consent, Mr. Chairman, that the debate on this paragraph end in five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that debate be concluded on this paragraph in five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. JOHNSON. I want to ask the gentleman from New York a question before he takes his seat. Is not the man who is designated as chief clerk, on page 73, the man who does the work at that Helena office?

Mr. LITTAUER. I think that is so, but they have a chief clerk and clerk at Deadwood, just the same as the assistant assayer at Charlotte, N. C., where the smallest business of any assay office is carried and which has the same employees as Boise and all these places. The head of the office does not do the work.

Mr. JOHNSON. Does not the gentleman think it is time for us to knock out some of these useless officers?

Mr. LITTAUER. The question is whether they are useless. They are the responsible heads, and if we take out one we ought to take them all out.

Mr. JOHNSON. It seems to me that we ought to make the man who has some work to perform the responsible head.

Mr. LITTAUER. It is about the same way where any Government work is carried on; it seems to be administered as economically as any of these offices.

Mr. JOHNSON. The Director of the Mint shows very clearly that these gentlemen have not much to do.

Mr. LITTAUER. But they do more business at the Helena office than either the Deadwood or other offices.

Mr. DIXON of Montana. I would like to ask the gentleman why he moves to strike out the Helena office and not apply it to the smaller offices.

Mr. JOHNSON. I made the motion at the first office that provided an assayer, because the testimony went to show that the men who wear that title do no work.

Mr. DIXON of Montana. But the gentleman will remember that the Helena, Mont., office is probably the second largest office in the United States. Nearly $5,000,000 in gold went to that assay office in the last year, besides a large quantity of the gold coming in from the Klondike.

Mr. LITTAUER. About twenty times as much as the Charlotte, N. C., assay office.

Mr. JOHNSON. I am simply trying to get rid of officers that the Director of the Mint says have nothing to do. That is all there is about it.

Mr. DIXON of Montana. But I would say to the gentleman, in explanation, that I am reliably informed that the Helena office does twenty times the amount of work that is done at the Charlotte, N. C., office.

Mr. JOHNSON. No use talking to me about Charlotte—that is not my baby.

Mr. DIXON of Montana. I will say to the gentleman that the Helena, Mont., office is mine [laughter], and I hope that the amendment will be voted down.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Assay office at St. Louis, Mo.: For assayer in charge, $2,000; clerk, $1,000; in all, $3,000.

Mr. JOHNSON. Mr. Chairman, I move to strike out the words "for assayer in charge, $2,000."

The Clerk read as follows:

Page 74, lines 5 and 6, strike out the words "for assayer in charge, $2,000."

Mr. JOHNSON. Mr. Chairman, I have already stated, in relation to the Helena, Mont., office, the reason why this officer ought to be taken out of this bill. It is simply some gentleman who wears the title and draws the salary who has nothing to do.

Mr. BARTHOLDT. I want to say this is my baby [laughter], and the argument made by the gentleman from South Carolina with respect to the assayer in Helena, Mont., does not apply to the assayer in St. Louis. He is an assayer in fact. He does the work. He is there from morning to night. He is charged with the hundreds and thousands of dollars' worth of valuable material that is being brought to that assay office, and he is responsible for every cent and every dollar of it. He has no assistant; he has to do the work himself. As the gentleman will find, if he will read the next line of this bill, there is no one to assist him except a clerk and workman and a janitor; and, in fact, the workman is the janitor.

I want to say, Mr. Chairman, with respect to this item, that St. Louis is geographically so located that an assay office is an absolute necessity. Of the largest cities in the country, St. Louis is nearer to the gold fields than any other. Its business, if you permit me to say so, has increased 500 per cent during the last four years. Ever since it has become generally known that there is an assay office in St. Louis—for it has not been known until recently—business has increased phenomenally, and there is good prospect that within a very few years the St. Louis office will rank amongst the biggest and largest in the country.

Mr. JOHNSON. May I interrupt the gentleman? The gentleman has made a very interesting talk. I want to say to him I am heartily in favor of paying people who work. The gentleman has assured this House that the assayer in that particular office earns his salary. That being so, I am willing, with the permission of the committee, to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment will be considered as withdrawn.

The Clerk read as follows:

Office of the Surgeon-General: For chief clerk, $2,000; law clerk, $2,000; thirteen clerks of class 4; eleven clerks of class 3; twenty-six clerks of class 2; thirty-two clerks of class 1; ten clerks, at $1,000 each; anatomist, $1,600; engineer, $1,400; assistant engineer, for night duty, $900; two firemen; skilled mechanic, $1,000; twelve assistant messengers; three watchmen; superintendent of building (Army Medical Museum and library), $250; six laborers; chemist, $2,088; principal assistant librarian, $2,088; pathologist, $1,800; microscopist, $1,800; assistant librarian, $1,800; four charwomen; in all, $161,686.

Mr. SLAYDEN. I want to ask the gentleman what in the world they want of a law clerk in the office of the Surgeon-General of the Army?

Mr. LITTAUER. There is a considerable amount of testimony in the hearings on that topic.

Mr. SLAYDEN. I have read that.

Mr. LITTAUER. We were impressed with the fact that the testimony showed——

Mr. SLAYDEN. Did you find that testimony convincing?

Mr. LITTAUER. Sufficiently to induce us to increase the salary of an $1,800 clerk to $2,000. This clerk devotes his time, in large part, to the solution of law questions and the determination of whether or not contracts are properly drawn. We thought the increase of $200 was proper and that the man's services were worth it.

Mr. SLAYDEN. I think the office of the Surgeon-General is as efficiently administered as any that I know of in any of the Departments of the Government, but I do not believe this is dealing frankly with the House or with the country. They do not need a law clerk in such an office as that, and if they want to increase the compensation of any employee of the office, I believe it would be better to be frank about it and say that that is the purpose of the amendment.

Mr. LITTAUER. We understood clearly that it was to increase the salary of a clerk from $1,800 to $2,000, and the reason for it is given in the words of the Surgeon-General:

I have a most valuable man, who has been there for a number of years, and who has charge of the legal propositions and questions about the expenditure of appropriations and the bills that come there, whether or not they are chargeable to an appropriation. He is very conversant with the decisions of the Comptroller.

Then later on I asked him:

Is he not really more of a contract clerk than a law clerk?

Mr. SLAYDEN. That is what he seems to be.

Mr. LITTAUER. The Surgeon-General answers:

You might call him that. There are questions in connection with laundry work. Our general appropriation pays for laundry work at posts, and there are questions constantly arising. I can not go into

the minutiæ, but I know he seems to be working on questions of that kind, which we take to be law questions, all the time.

The items submitted with reference to that office generally call for a reduction rather than an increase.

Mr. SLAYDEN. Would it not be just as proper to call this man a "laundry clerk" as to call him a "law clerk?" [Laughter.]

Mr. LITTAUER. Oh, no; I think not.

The CHAIRMAN. If there be no objection, the formal amendment will be considered as withdrawn.

The Clerk read as follows:

Office of the Bureau of Insular Affairs: For chief clerk, $2,000; eight clerks of class 4; three clerks of class 3; eight clerks of class 2; fifteen clerks of class 1; thirteen clerks, at $1,000 each; fourteen clerks, at $900 each; two messengers; two assistant messengers; five laborers; two charwomen; in all, $82,900.

Mr. LITTAUER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

On page 87, in line 10, after the word "for" insert "law officer, $4,500."

In line 15, strike out "eighty-two thousand nine" and insert "eighty-seven thousand four."

Mr. HAY. Mr. Chairman, I reserve the point of order.

Mr. LITTAUER. The current law carries provision for this law officer at $4,500. He has been connected with the Bureau of Insular Affairs at that compensation for many years.

The Secretary of War stated that he was using this law officer in part for questions in connection with isthmian canal affairs, and the problem before the committee was how we should divide his salary; whether part of it should not be chargeable to the isthmian canal and part of it to the work of the law officer of the Bureau of Insular Affairs. We left out the provision in this bill, but the Secretary of War wrote that the services of this man were essential to him, and that he felt with the number of irons he had in the fire at this time that we should continue this law officer.

Mr. FITZGERALD. Where is the man provided for now?

Mr. LITTAUER. In the current law, in this very place, under the Bureau of Insular Affairs. He has been there for many years past. Judge Magoon, now an Isthmian Canal Commissioner, formerly occupied the position.

Mr. FITZGERALD. Who is the law officer now?

Mr. LITTAUER. I do not know the law officer's name.

Mr. SHACKLEFORD. Does this law officer draw any other salary from the Government except this?

Mr. LITTAUER. I am quite positive he does not.

Mr. SHACKLEFORD. All he gets is provided in this particular place.

Mr. LITTAUER. As far as I know, and I believe it can be stated as a fact that he only draws $4,500, but he does much work for the Secretary of War in connection with isthmian affairs.

Mr. FITZGERALD. But draws no salary for that?

Mr. LITTAUER. None at all. The question with us was how we could divide the salary, paying part of the compensation out of the isthmian canal fund and part out of this, and we thought the smoothest way and possibly the most satisfactory way was to make the provision in this place as it had been made before.

Mr. SMITH of Kentucky. What change do you make?

Mr. LITTAUER. We reinstate the same provision that is in the current appropriation bill for the law officer in the Bureau of Insular Affairs, the compensation being the same as in the current law, $4,500.

Mr. FITZGERALD. Is this man there to advise the present Secretary of War on questions of law?

Mr. LITTAUER. Yes.

Mr. FITZGERALD. Does the gentleman think that a man who is a possible candidate for the Supreme Court of the United States needs the advice of a law officer?

Mr. LITTAUER. Unquestionably, in order to have such matters examined into thoroughly and presented to him for determination.

Mr. MANN. He will get more advice on law questions after he goes on the Supreme bench than he gets now. [Laughter.]

Mr. HAY. I merely reserved the point of order for an explanation.

The CHAIRMAN. The Chair understands that the gentleman from Virginia does not make the point of order. The question is on agreeing to the amendment offered by the gentleman from New York [Mr. LITTAUER].

The amendment was agreed to.

The Clerk read as follows:

For postage stamps for the War Department and its bureaus, as required under the Postal Union, to prepay postage on matters addressed to the Postal Union countries, $500.

Mr. JOHNSON. Mr. Chairman, I move to strike out the last word. I want to ask the gentleman in charge of the bill if the general provision, usually found in appropriation bills, as to the purchases of supplies in excess of $200 shall be advertised, is in this bill?

Mr. LITTAUER. There is a provision in the Army bill, I believe, that permits the purchase of supplies up to a certain amount without advertising.

Mr. JOHNSON. I am familiar with that provision, but I want to know if that law applies to the appropriations carried in this bill?

Mr. LITTAUER. It does not. For all the little expenses of the Department here in Washington purchases can only be made after proper advertisement, submission of proposals, etc., although it was suggested by the Assistant Secretary that we should give him that privilege to purchase articles up to the value of $100 without advertisement we did not see fit to incorporate that provision in the bill.

Mr. JOHNSON. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR.

Office of the Secretary: For compensation of the Secretary of the Interior, $8,000; First Assistant Secretary, $4,500, and for additional compensation while the office is held by the present incumbent, $1,500; Assistant Secretary, $4,500; chief clerk, $2,500, and $500 additional as superintendent of the Patent Office building and other buildings of the Department of the Interior; additional to one member of board of pension appeals, acting as chief of the board, $500; nine members of a board of pension appeals, to be appointed by the Secretary of the Interior, at $2,000 each; twelve additional members of the board of pension appeals, to be selected and appointed by the Secretary of the Interior from persons not now or heretofore employed in the Pension Office and without compliance with the conditions prescribed by the act entitled "An act to regulate and improve the civil service," approved January 16, 1883, for the fiscal year 1907, at the end of which year said employments shall cease, at $2,000 each; three additional members of said board of pension appeals, to be appointed by the Secretary of the Interior and to be selected from the force of the Pension Office, at $2,000 each; special land inspector, connected with the administration of the public-land service, to be appointed by the Secretary of the Interior and to be subject to his direction $2,500; five special inspectors, Department of the Interior, to be appointed by the Secretary of the Interior and to be subject to his direction, at $2,500 each; custodian, who shall give bond in such sum as the Secretary of the Interior may determine, $2,100; seven clerks, chiefs of division, at $2,250 each, one of whom shall be disbursing clerk; four clerks, at $2,000 each; private secretary to the Secretary of the Interior, $2,500; sixteen clerks of class 4; fourteen clerks of class 3; twenty-five clerks of class 2; thirty-six clerks of class 1, two of whom shall be stenographers or typewriters; returns office clerk, $1,200; female clerk, to be designated by the President, to sign land patents, $1,200; six clerks, at $1,000 each; one clerk, $900; twelve copyists; two copyists or typewriters, at $900 each; switchboard telephone operator; nine messengers; seven assistant messengers; eighteen laborers; two skilled mechanics, one at $900 and one at $720; two carpenters, at $900 each; plumber, $900; electrician, $1,000; one laborer, $600; six laborers, $480 each; one packer, $660; two conductors of elevator, at $720 each; four charwomen; captain of the watch, $1,200; forty watchmen; additional to two watchmen acting as lieutenants of watchmen, at $120 each; engineer, $1,200; assistant engineer, $1,000; seven firemen; one clerk, to be appointed by the Secretary of the Interior, to sign, under the direction of the Secretary, in his name and for him, his approval of all tribal deeds to allottees and deeds for town lots made and executed according to law for any of the Five Civilized Tribes of Indians in the Indian Territory, $1,200; in all, $342,390.

Mr. LITTAUER. Mr. Chairman, on page 108, line 14, I move to strike out the word "two;" so that it will read "three hundred and forty thousand three hundred and ninety dollars."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

General Land Office: For the Commissioner of the General Land Office, $5,000; Assistant Commissioner, to be appointed by the President, by and with the advice and consent of the Senate, who shall be authorized to sign such letters, papers, and documents and to perform such other duties as may be directed by the Commissioner, and shall act as Commissioner in the absence of that officer or in case of a vacancy in the office of Commissioner, $3,500; chief clerk, $2,500; chief law clerk, $2,500; two law clerks, at $2,200 each; three inspectors of surveyors-general and district land offices, at $2,000 each; recorder, $2,000; eleven chiefs of division, at $2,000 each; two law examiners, at $2,000 each; ten principal examiners of land claims and contests, at $2,000 each; two examiners of mineral claims and contests, at $2,000 each; thirty-seven clerks of class 4; sixty-four clerks of class 3; sixty-seven clerks of class 2; sixty-nine clerks of class 1; fifty-seven clerks, at $1,000 each; sixty copyists; two messengers; ten assistant messengers; six skilled laborers, who may act as assistant messengers when required, at $660 each; sixteen laborers; one laborer, $480; one packer, $720; one depositary acting for the Commissioner as receiver of public moneys and also as confidential secretary, $2,000; librarian for the law library of the General Land Office, to be selected by the Secretary of the Interior wholly with reference to his special fitness for such work, $1,000; in all, $560,100.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word. There is evidently an increase of salaries and officers in the General Land Office, not only an increase in salary, but an increase in the number of clerks. Here is a law clerk, $2,500. I know this would have been subject to a point of order

but for the extraordinary performance we had this morning in having an extraordinary rule applied to an ordinary appropriation bill. I think more information is due the House than is given in the very meager report made on this subject by the committee as to why the Appropriations Committee felt called upon to make this increase—not only an increase in the number of clerks, but an increase in the larger salaries amounting to as high as $2,500.

Mr. LITTAUER. I would state that the provisions for the General Land Office include these changes from current law: The chief clerk's salary is made $2,500, an increase of $250. The chief law clerk, at $2,500, is added to the force, and four copyists are stricken out.

Mr. BARTLETT. No; you provide for the copyists.

Mr. LITTAUER. We provide for sixty copyists, but the current law provides for sixty-four. The necessity for the chief law clerk is due to the fact that the two law clerks now provided for are wholly occupied in daily examination of cases involving questions of law regularly arising in the transaction of the ordinary business coming before the office on appeal from the various local land offices and otherwise.

Mr. BARTLETT. May I ask the gentleman is it not a fact that these offices are created and that the present officers, the clerks, are to be advanced at once into these new places?

Mr. LITTAUER. I did not quite hear what the gentleman said.

Mr. BARTLETT. Is it not the purpose of this bill, to be plain about it, to provide places wherein men who now perform these duties at lower salaries are to be advanced to these positions with a higher salary?

Mr. LITTAUER. I do not think that that would apply in this particular case. I believe that the law clerks already provided for would remain where they are, and that there would be a chief law clerk who would attend to the special questions coming before the Department and who ought to be entitled to a salary of $2,500.

Mr. TAWNEY. I will say to the gentleman from Georgia that this particular clerk is performing the duties of chief law clerk of the law division of the Land Office. It is for the purpose of giving him a legal designation that this change is made. He is performing the duties of reviewing officer, reviewing the decisions of the other law clerks, and to that extent relieves the Assistant Commissioner. He is the chief law clerk and has greater responsibilities and has to do more work than any other law clerk in the whole division.

Mr. BARTLETT. And generally runs the Land Office.

Mr. TAWNEY. His designation was changed and his salary was increased.

Mr. BURLESON. And the necessity for it was advocated by the Department officials.

Mr. BARTLETT. I understand. I thought I would find out where it was. Now, then, it is a fact that this increase of salary is intended for some particular man?

Mr. TAWNEY. Some particular man?

Mr. BARTLETT. Yes; some particular man who is now working at a less salary.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAWNEY. Mr. Chairman, I move to strike out the last word for the purpose of answering the gentleman. It is not for any particular man, but it is for the man who fills this office either now or hereafter who is required to discharge the duties of chief clerk of the law division of the Land Office. That is for whose benefit this increase is made. It is made for the benefit of the man who performs the duties, whoever he may be. There is such a distinction between the duties performed by this officer and the other law clerks in the Department as entitles him to greater remuneration. His duties are more onerous and his responsibilities greater. He is the man who stands between the law division in the reviewing of all opinions and decisions rendered and the Assistant Commissioner of the Land Office.

Mr. JOHNSON. Mr. Chairman, I would like to ask the gentleman in charge of the bill a question. In view of the fact that the chief clerks in the War Department and the Navy Department and all the other bureaus are getting $2,000, are not the gentlemen on the committee apprehensive that at the very next session of this Congress the heads of these Departments will be down upon them, asking that their chief clerks be raised to $2,500?

Mr. LITTAUER. That is very true. We find that when we raise one all the rest want to go up.

Mr. JOHNSON. Because they do not know any way of equalizing salaries except to put them up.

Mr. LITTAUER. Up to the top level; that is right.

Mr. JOHNSON. Now, as sure as you make this clerk's salary—I don't know whether he is worth that or not—but as sure as you make his salary $2,500 a year the other chief clerks will be here at the next session of Congress and the next, claiming that their duties are just as arduous, and that unless you give them $2,500 there is an inequality.

Mr. LITTAUER. This was one of the last matters passed upon by the Committee on Appropriations before reporting this bill. The Assistant Commissioner of the Land Office appeared before us, detailed the services of this man, and stated they were rather extraordinary. He is a particularly well-fitted official. He not only did the ordinary work of chief clerk in overlooking the other clerks, but he also did some of this work of reviewing the work that came in from the field from the men connected with the service in the field, and a particularly strong appeal was made by the General Land Office to have this man's service recognized by an addition of $500.

Mr. JOHNSON. And that strong appeal will be followed up by an equally strong appeal from other divisions and bureaus.

Mr. TAWNEY. The appropriation bill for 1892 and 1893 carried this salary at $2,500, $250 more than is provided for in this bill.

Mr. PALMER. Mr. Chairman, ought not this whole business of employing law clerks in these Departments to be changed, and ought not the Attorney-General's Office or the Department of Justice to have control of all the law business, and ought not everyone of these bureaus and subbureaus——

Mr. LITTAUER. Oh, Mr. Chairman, I do not think that would work well in practice at all.

Mr. PALMER. Well, now you have got about 150 or 200 law clerks scattered around in these bureaus, and everyone of them is a law unto himself.

Mr. LITTAUER. Yes; and when we have agents of the Department of Justice in the various departments, solicitor's offices, we find a large force gradually necessary and more and more law business to be transacted. The Department of Justice has no supervision whatever over the work they perform.

Mr. PALMER. Would it not be far better for the Department of Justice to have complete supervision over all of this work, and whenever any Department of the Government desires to have information on any question of law ought not it to be referred to the Department of Justice, so that there would be some kind of a harmonious ruling? Now you have 150 law clerks, so called, some of them lawyers and some of them laundry clerks, as I understand. Of course their views of the law are very diverse.

Mr. LITTAUER. Well, these law clerks that the gentleman refers to are really contract clerks—clerks that pass upon contracts entered into by the Departments and the bureaus, to determine that they are in proper form and to arrange for the ordinary contracts made for purchases, and so on.

Mr. PALMER. They pass upon the questions of law, do they not?

Mr. LITTAUER. Well, they pass upon questions of law and formulate contracts.

Mr. PALMER. There is nobody responsible for their decision except the clerks themselves?

Mr. LIVINGSTON. Mr. Chairman, may I say to my colleague that this law clerk is particularly needed here, and used in connection with the contracts between the Government and the Indians?

Mr. PALMER. I am not making any criticism of this particular office, but I am saying that the whole system, it seems to me, is upside down. The Department of Justice ought to have control of all these matters. We ought to have a homogeneous and harmonious system, by which the head of some Department would be responsible for the decisions that are made. Now you have about 150 sources from which decisions come, and some of them are law and some of them are not law.

Mr. LIVINGSTON. Let me say to the gentleman, Mr. Chairman, that perhaps there are a thousand small legal questions arising in the different Departments in a week. If you should send all those up to the Department of Justice they would have to have five or six hundred more law clerks to answer these little detail departmental legal questions which come up in the Departments of the Government. That would blockade and handicap the Department of Justice to the extent that they could do no work at all.

Mr. JOHNSON. Mr. Chairman——

Mr. BARTLETT. Mr. Chairman, who has the floor? I believe I have the floor. I would like to ask the gentleman which one of these clerks is new, then?

Mr. LITTAUER. Which is that?

Mr. BARTLETT. Law clerks, General Land Office.

Mr. LITTAUER. It is the chief law clerk that is new. There are four law clerks in the office under current law.

Mr. BARTLETT. The gentleman ought to read the bill. In line 16, "chief law clerk, $2,500," and then "chief law clerk, $2,500." Which one is new?

Mr. LITTAUER. The chief law clerk, $2,500, is new, and two law clerks at $2,200 each are in the current law, and also below that two law examiners, at $2,000 each.

Mr. BARTLETT. But the gentleman has not answered my question yet. In line 16, "chief law clerk, $2,500?"

Mr. LITTAUER. That is new.

Mr. BARTLETT. Then "chief law clerk, $2,500." Is that new?

Mr. LITTAUER. That is new.

Mr. BARTLETT. Both of them?

Mr. LITTAUER. No; there is a chief clerk, at $2,500, and the other is a chief law clerk.

Mr. BARTLETT. All right; but the chief law clerk is new?

Mr. LITTAUER. Yes.

Mr. MONDELL. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Georgia yield to the gentleman from Wyoming?

Mr. LIVINGSTON. What is it the gentleman from Wyoming wishes to ask?

Mr. MONDELL. I wish to discuss the matter under discussion.

The CHAIRMAN. The time of the gentleman from Georgia has expired. The Chair will recognize the gentleman from Wyoming.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. This, to my mind, is a very important matter, and this chief law clerk is badly needed in the General Land Office. It should be remembered that in the first instance the law officers of the General Land Office pass upon legal questions connected with every land entry in the United States, that these men pass upon in the course of a year probably more cases of importance to individual settlers on the public domain and to individual citizens than any other class of law clerks or law examiners or law officials of any department of the Government. The General Land Office has now two law clerks and two law examiners. Matters coming from the various divisions of the General Land Office—swamp-land division, preemption division, homestead division, contest division—passed upon and initialed in those divisions, come to the law clerks and are passed upon by them before going to the Commissioner or Assistant Commissioner, as the case may be.

Mr. PALMER. Mr. Chairman, I would ask the gentleman who appoints these clerks?

Mr. MONDELL. Why, they are appointed under civil service.

Mr. PALMER. To whom do they report? Who is responsible for their decisions?

Mr. MONDELL. Their decisions are passed upon finally by the Assistant Commissioner or Commissioner.

Mr. PALMER. Then the Department of Justice of the United States has nothing to do with them?

Mr. MONDELL. The Department of Justice has nothing to do with them and can not have anything to do with them.

Mr. PALMER. Do you not think it would be better for the Department of Justice to be responsible for all the law that is peddled out in these Departments?

Mr. MONDELL. Why, Mr. Chairman, it would be utterly impossible for the Department of Justice, without revolutionizing the system that we adopted at the foundation of the Government, to pass upon these questions relative to the rights of entrymen that have always been passed upon by the officials of the General Land Office. They pass through the divisions of the General Land Office to these law examiners; are reviewed by them; they are taken to the Commissioner or Assistant Commissioner, and, then, if the entryman is not satisfied, he may appeal to the Secretary of the Interior.

Mr. PALMER. Do I understand the gentleman to say that these lawyers were appointed by the Civil Service Commission, or that they take a civil-service examination?

Mr. MONDELL. They are appointed under civil-service rules, I understand.

Mr. PALMER. Do you understand that a lawyer has to submit himself to a civil-service examination before he can get an appointment in one of these bureaus?

Mr. MONDELL. I am not responsible for the civil-service law; it is on the statute books.

Mr. PALMER. I understand the gentleman perfectly as to that. I am only asking, as a matter of fact, about the appointment of these lawyers. You say that they are appointed under the civil-service rules. I am asking you if a lawyer must submit himself to an examination by the Civil Service Commission before he can get an appointment in one of these bureaus?

Mr. CRUMPACKER. He has.

Mr. MONDELL. I understand that to be the fact.

Mr. KEIFER. I understand the gentleman to say that the clerks are not in any way under the Department of Justice, that that has been the condition of things from the earliest times in this country. I want to know of him whether, if a party feels wronged by any action of the Land Office or anywhere else, he may not appeal on a legal question not only to the Secretary, as the head of that Department, but also to the Attorney-General and Department of Justice, and at last whether all of these officers are under the general direction of the Department of Justice?

Mr. MONDELL. That is a very large question, Mr. Chairman. The fact is that in the matter of settling titles to the public lands my understanding is that it has been held that there is no appeal in ordinary cases from the decision of the Secretary of the Interior.

Mr. KEIFER. But is there not now, under a ruling of the Department, where you may go, after a decision has been made by the Secretary of the Interior, and have the question passed upon by the Attorney-General?

Mr. MONDELL. I know of no such ruling.

Mr. LITTAUER. I move that the committee do now rise.

Mr. BARTLETT. A parliamentary inquiry. This section is subject to amendment, is it not?

The CHAIRMAN. The Chair understands that it is.

The motion that the committee rise was then agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had further considered the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—and had come to no resolution thereon.

OPENING KIOWA, COMANCHE, AND APACHE RESERVATION.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of a joint resolution to amend the bill (H. R. 431) to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Reservation in Oklahoma Territory.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of a joint resolution, which the Clerk will report.

Mr. WILLIAMS. Mr. Speaker, I dislike very much to do it. After 5 o'clock, usually, the House is so thin and there are so few people here I have felt it right that no unanimous consent should be gotten after 5; and without waiting to hear what the bill is, so that I may not even appear to have opposed the bill, I shall object.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolutions of the following titles; when the Speaker signed the same:

H. R. 6216. An act granting an increase of pension to Stephen D. Hopkins;

H. J. Res. 127. Joint resolution to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports; and

H. J. Res. 128. Joint resolution to prevent unnecessary printing and binding and to correct evils in the present method of distribution of public documents.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5211. An act to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho;

S. 4833. An act to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 23, 1905;

S. 5204. An act to authorize the construction of a bridge or bridges across the Yellowstone River in Montana;

S. 5184. An act to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota;

S. 4628. An act providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof; and

S. 4198. An act granting permission to Prof. Simon Newcomb, United States Navy, retired, to accept the decoration of the order "Pour le Mérite, für Wissenschaften und Kunste."

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 536. An act amending the act of August 3, 1892, chapter

361, entitled "An act fixing the fees of jurors and witnesses in the United States courts in certain States and Territories" (27 Stat. L., p. 347)—to the Committee on the Judiciary.

REORGANIZATION OF THE CONSULAR SERVICE.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I submit a conference report on Senate bill 1345, in order that it may be printed in the RECORD.

The SPEAKER. The conference report and statement will be printed in the RECORD.

CHANGES OF REFERENCE.

By unanimous consent, reference was changed on House resolution 376 from the Committee on Claims to the Committee on the Judiciary.

On bill (H. R. 17412) for acquiring by condemnation for Government reservations certain triangles on Sixteenth street, in the city of Washington, from the Committee on the District of Columbia to the Committee on Public Buildings and Grounds.

PUBLIC SCHOOLS OF THE DISTRICT OF COLUMBIA.

Mr. FOSTER of Vermont. Mr. Speaker, I ask unanimous consent for a reprint of the bill (H. R. 11641) for the improvement of the public schools of the District of Columbia.

Mr. WILLIAMS. I will have to object to unanimous consent.

Mr. FOSTER of Vermont. It is merely the reprint of a bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. LITTAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 3 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred by the Speaker as follows:

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of St. Johns River, Florida—to the Committee on Rivers and Harbors, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of Commerce and Labor submitting an estimate of appropriation for lighting Ambrose channel, New York Bay—to the Committee on Appropriations, and ordered to be printed.

A letter from the Acting Secretary of the Interior, transmitting, with a letter from the Acting Director of the Geological Survey, a draft of a bill for the lease of certain lands and the covering of the proceeds into the reclamation fund—to the Committee on Public Lands, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Maurice River, New Jersey—to the Committee on Rivers and Harbors, and ordered to be printed, with accompanying illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. GILLETT of California, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 2286) to confer jurisdiction upon the circuit court of the United States for the ninth circuit to determine in equity the rights of American citizens under the award of the Bering Sea arbitration of Paris and to render judgment thereon, reported the same with amendment, accompanied by a report (No. 2674); which said bill and report were referred to the House Calendar.

Mr. PALMER, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 11273) to incorporate The National German-American Alliance, reported the same with amendment, accompanied by a report (No. 2675); which said bill and report were referred to the House Calendar.

Mr. GRONNA, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 16954) providing for the reappraisement of certain suburban lots in the town site of Port Angeles, Wash., reported the same with amendment, accompanied by a report (No. 2676); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. JENKINS, from the Committee on the Judiciary, to which was referred the House resolution (H. Res. 375) requesting the Attorney-General to inform the House of name and date of every appointment made under the act of Congress to carry into effect the stipulations of article 7 of the treaty between the United States and Spain, reported the same with amendment, accompanied by a report (No. 2677); which said resolution and report were referred to the House Calendar.

Mr. FOSS, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 10858) to establish a naval militia and define its relations to the General Government, reported the same with amendment, accompanied by a report (No. 2680); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 15673) for the relief of Harry A. Young, reported the same with amendment, accompanied by a report (No. 2669); which said bill and report were referred to the Private Calendar.

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 13917) to remove the charge of desertion from the military record of Robert W. Liggett, reported the same without amendment, accompanied by a report (No. 2670); which said bill and report were referred to the Private Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 584) for the relief of David H. Moffat, reported the same without amendment, accompanied by a report (No. 2672); which said bill and report were referred to the Private Calendar.

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 5842) to correct the military record of Charles F. Deisch, reported the same with amendment, accompanied by a report (No. 2678); which said bill and report were referred to the Private Calendar.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 16521) directing the Secretary of the Interior to convey a certain parcel of land to Johnson County, Wyo., reported the same with amendment, accompanied by a report (No. 2679); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 497) to authorize the President to revoke the order dismissing William T. Godwin, late first lieutenant, Tenth Infantry, United States Army, and to place the said William T. Godwin on the retired list with the rank of first lieutenant, reported the same adversely, accompanied by a report (No. 2671); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BABCOCK: A bill (H. R. 17451) to amend section 653 of the Code of Law for the District of Columbia, relative to assessment life insurance companies and associations—to the Committee on the District of Columbia.

Also, a bill (H. R. 17452) to provide for payment of damages on account of changes in grade due to the elimination of grade crossings on the line of the Philadelphia, Baltimore and Washington Railroad Company—to the Committee on the District of Columbia.

By Mr. PAYNE: A bill (H. R. 17453) for the withdrawal from bond, tax free, of domestic alcohol when rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing materials—to the Committee on Ways and Means.

By Mr. GILL (by request): A bill (H. R. 17454) to amend the statutes relating to patents—to the Committee on Patents.

By Mr. BUCKMAN: A bill (H. R. 17455) permitting the building of a dam across the Mississippi River at or near the

village of Clearwater, Wright County, Minn.—to the Committee on Interstate and Foreign Commerce.

By Mr. RHODES: A bill (H. R. 17456) making appropriations for the improvement of the Mississippi River at Clearyville, Mo., and other points in Perry County, Mo.—to the Committee on Levees and Improvements of the Mississippi River.

Also, a bill (H. R. 17457) making appropriations for the improvement of the Mississippi River at Hughs Landing, near Crystal City, Mo., and other points in Jefferson County, Mo.—to the Committee on Levees and Improvements of the Mississippi River.

By Mr. BENNET of New York: A bill (H. R. 17458) to authorize the United States Government to participate in the international exposition to be held at Milan, Italy, during the year 1906, and to appropriate money in aid thereof—to the Committee on Industrial Arts and Expositions.

By Mr. ANDREWS: A bill (H. R. 17459) to set apart certain lands in the Territory of New Mexico as a public park, to be known as the New Mexico Cliff Dwellers National Park, for the purpose of preserving the prehistoric caves and ruins and other works and relics therein—to the Committee on the Public Lands.

Also, a bill (H. R. 17460) to improve the grounds about the Federal building at Santa Fe, N. Mex.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17461) to authorize an issue of bonds by the Territory of New Mexico for the enlargement of the Territorial Insane Asylum—to the Committee on the Territories.

By Mr. SULLIVAN of Massachusetts: A bill (H. R. 17462) to abolish the Spanish Treaty Claims Commission—to the Committee on the Judiciary.

By Mr. SMITH of Texas: A bill (H. R. 17463) to provide for investigation of and report upon the medicinal and therapeutic value of the mineral waters at Mineral Wells, Tex.—to the Committee on Interstate and Foreign Commerce.

By Mr. BROWNLOW: A bill (H. R. 17464) to amend section 647 of the Code of Law of the District of Columbia—to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BURLEIGH: A bill (H. R. 17465) granting an increase of pension to George G. Spurr, jr.—to the Committee on Pensions.

By Mr. CALDER: A bill (H. R. 17466) granting an increase of pension to James P. Hall—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Kansas: A bill (H. R. 17467) granting a pension to George R. Bathe—to the Committee on Invalid Pensions.

By Mr. CAPRON: A bill (H. R. 17468) granting an increase of pension to Duty Place—to the Committee on Invalid Pensions.

By Mr. DAVIS of West Virginia: A bill (H. R. 17469) granting a pension to Lucretia L. Flick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17470) granting an increase of pension to John M. Collins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17471) granting an increase of pension to Leonard Wile—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17472) granting an increase of pension to John K. Whitford—to the Committee on Invalid Pensions.

By Mr. DE ARMOND: A bill (H. R. 17473) granting a pension to Malinda S. Close—to the Committee on Pensions.

Also, a bill (H. R. 17474) granting an increase of pension to William M. Cooper—to the Committee on Invalid Pensions.

By Mr. DRESSER: A bill (H. R. 17475) granting a pension to Charles Wesley Hall—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: A bill (H. R. 17476) granting an increase of pension to Henry Ballard—to the Committee on Invalid Pensions.

By Mr. FULKERSON: A bill (H. R. 17477) granting an increase of pension to George N. Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17478) granting an increase of pension to Stephen J. Lansdown—to the Committee on Invalid Pensions.

By Mr. GARDNER of New Jersey: A bill (H. R. 17479) granting an increase of pension to James J. Lamb—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17480) granting an increase of pension to Charles P. Lord—to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 17481) granting a pension to Eliza F. Wadsworth—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 17482) granting an increase of pension to John W. Sherman—to the Committee on Invalid Pensions.

By Mr. HOWELL of New Jersey: A bill (H. R. 17483) granting an increase of pension to William H. Loyd—to the Committee on Invalid Pensions.

By Mr. HUGHES: A bill (H. R. 17484) granting an increase of pension to John E. Gillispie, alias John G. Elliott—to the Committee on Pensions.

By Mr. McGUIRE: A bill (H. R. 17485) granting an increase of pension to Stillman Goodno—to the Committee on Invalid Pensions.

By Mr. McMORRAN: A bill (H. R. 17486) granting an increase of pension to Rudolph Papst—to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 17487) granting an increase of pension to George A. Stewart—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17488) granting an increase of pension to Teresa McNulty—to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 17489) granting an increase of pension to Henry H. Archer—to the Committee on Invalid Pensions.

By Mr. REID: A bill (H. R. 17490) granting a pension to Alice George—to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 17491) granting an increase of pension to Thomas Howard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17492) granting an increase of pension to William Palmerton—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 17493) to permit Richard H. Whitehead, of Manatee County, Fla., to purchase certain lands herein mentioned—to the Committee on the Public Lands.

By Mr. STEVENS of Minnesota: A bill (H. R. 17494) granting an increase of pension to Peter Theren—to the Committee on Invalid Pensions.

By Mr. SULLIVAN of Massachusetts: A bill (H. R. 17495) granting an increase of pension to George H. Nye—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17496) granting an increase of pension to Jeremiah Keefe—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 17497) for the relief of Maj. James W. Watson, United States Army—to the Committee on Indian Affairs.

By Mr. KAHN: A bill (H. R. 17498) for the relief of Robert A. Malloy—to the Committee on War Claims.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 15178) granting an increase of pension to Matilda Morrison—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 15179) granting an increase of pension to J. W. Hathaway—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 15180) granting an increase of pension to Amanda Pittman—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 17025) granting a pension to Lavinia Ray—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 2317) granting a pension to Lottie B. Galleher—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of Cattle Raisers' Association of Texas, for classified census of live stock each five years—to the Committee on Agriculture.

Also, petition of Cattle Raisers' Association of Texas, for proper classification of public lands—to the Committee on the Public Lands.

Also, petition of Cattle Raisers' Association of Texas, for stifling of trusts—to the Committee on the Judiciary.

Also, petition of Davenport Academy of Science, for creation of Mesa Verde National Park—to the Committee on the Public Lands.

Also, petition of Delaware Valley Naturalists' Union, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. ADAMS of Pennsylvania: Petition of Lydia Darrah

Council, No. 110, Daughters of Liberty, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Naval Post, No. 400, Department of Pennsylvania, for bill H. R. 3814 (previously referred to Committee on Invalid Pensions)—to the Committee on Naval Affairs.

By Mr. ALEXANDER: Petition of Good Citizenship League, Flushing, N. Y., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. BOWERSOCK: Petition of Garnett (Kans.) Club, for investigation of industrial condition of woman—to the Committee on Appropriations.

By Mr. BROWN: Petition of Wisconsin Farmers' Institute, for Heyburn pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Farmers' Institute of Wisconsin, against seed distribution—to the Committee on Agriculture.

By Mr. BURNETT: Petition of The Item, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BUTLER of Pennsylvania: Petition of State Federation of Pennsylvania Women, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of State Federation of Pennsylvania Women, for Norris law and preservation of forests of White Mountains—to the Committee on Agriculture.

By Mr. CAPRON: Paper to accompany bill for relief of Duty Peace—to the Committee on Invalid Pensions.

By Mr. DALE: Paper to accompany bill for relief of John Depew—to the Committee on Military Affairs.

By Mr. DAVIS of West Virginia: Paper to accompany bill for relief of J. K. Whitford—to the Committee on Invalid Pensions.

By Mr. DAWSON: Petition of citizens of Iowa, against bill H. R. 7067—to the Committee on Indian Affairs.

By Mr. DEEMER: Petition of Excelsior Council, No. 4, Daughters of Liberty, Pennsylvania, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Pennsylvania, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DRAPER: Petition of Robert S. Waddell, against powder monopoly—to the Committee on Military Affairs.

By Mr. DRESSER: Petition of citizens of Pennsylvania, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Pennsylvania, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. DUNWELL: Petition of Horticultural Society of New York, against free garden seeds—to the Committee on Agriculture.

By Mr. ELLIS: Paper to accompany bill for relief of Frederick Rice (previously referred to Committee on Military Affairs)—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: Petition of citizens of Vermont, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GILLETT of Massachusetts: Petition of Northfield (Mass.) Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GOULDEN: Petition of Buffalo Credit Men's Association, for national bankruptcy law (previously referred to Committee on Banking and Currency)—to the Committee on the Judiciary.

By Mr. HASKINS: Petition of Waterbury Grange, No. 237, and Washington Grange, No. 266, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAYES: Petition of citizens of San Jose, Cal., for relief of landless Indians of northern California—to the Committee on Indian Affairs.

Also, petition of M. C. Cutler, for pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Woman's Club of San Jose, Cal., to investigate industrial condition of women—to the Committee on Appropriations.

Also, petition of J. A. Harliss, for pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Marble Workers of San Francisco, against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of citizens of San Jose, Cal., against bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of citizens of San Jose, Cal., for relief of landless Indians in California—to the Committee on Indian Affairs.

By Mr. HENRY of Connecticut: Petition of citizens of Connecticut, for bill H. R. 4549—to the Committee on the Post-Office and Post-Roads.

By Mr. HOWELL of New Jersey: Paper to accompany bill for relief of Laura B. Ihrie—to the Committee on Pensions.

Also, paper to accompany bill for relief of Mary D. McChesney—to the Committee on Invalid Pensions.

By Mr. HUBBARD: Petition of citizens of Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KAHN: Petition of A. S. Paré, for bill H. R. 6035, relative to patents—to the Committee on Patents.

Also, petition of the General Federation of Women's Clubs of San Francisco, for investigation of industrial condition of women in the United States—to the Committee on Appropriations.

Also, petition of Buckingham & Hecht, against anti-injunction bill—to the Committee on the Judiciary.

Also, petition of A. H. McDonald, for bill H. R. 10501—to the Committee on Education.

Also, petition of Japanese and Korean Exclusion League, for present Chinese-exclusion law—to the Committee on Foreign Affairs.

Also, petition of Peter D. Martin, et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Local Union No. 46, International Association of Steam Fitters, against Foster bill—to the Committee on Foreign Affairs.

Also, petition of Golden West Lodge, No. 73, for the anti-injunction bill—to the Committee on the Judiciary.

Also, petition of Prof. Frank Soule and Hon. George C. Pardee, University, Cal., for bill S. 1031—to the Committee on the Public Lands.

Also, petition of German Roman Catholic Statesbund of California and St. Joseph's Benevolent Society, against bill H. R. 7067—to the Committee on Indian Affairs.

Also, petition of California Miners' Association et al., for reclamation of swamp and overflowed land along Sacramento River—to the Committee on Irrigation of Arid Lands.

Also, petition of F. F. G. Harper & Co., San Francisco, against licensing custom-house brokers—to the Committee on Ways and Means.

Also, petition of Pacific Coast Baker and Confectioner, against tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of First National Bank of San Francisco, Cal., and Bank of California, for bill H. R. 15846, relating to bills of lading—to the Committee on Interstate and Foreign Commerce.

Also, petition of Sierra Club, of California, for White Mountain forest preservation—to the Committee on the Public Lands.

By Mr. KELIHER: Petition of First Baptist Church of Boston, against state of affairs in Kongo Free State—to the Committee on Foreign Affairs.

By Mr. KENNEDY: Paper to accompany bill for relief of George Trussell—to the Committee on Invalid Pensions.

By Mr. WILLIAM W. KITCHIN: Paper to accompany bill for relief of Agnes S. Ball—to the Committee on Invalid Pensions.

By Mr. LAFEAN: Petition of True Blue Council, No. 186, Daughters of Liberty, East Prospect, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LAWRENCE: Petition of Plainfield Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of Robert S. Waddell, against powder monopoly—to the Committee on Military Affairs.

Also, petition of Horticultural Society of New York, against free distribution of seeds—to the Committee on Agriculture.

Also, petition of Jennie Fowler Willing, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Moran Towing Company, against unjust pilotage laws—to the Committee on the Merchant Marine and Fisheries.

Also, petition of New York Produce Exchange, against clause on tonnage dues in subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. LITTLEFIELD: Petition of citizens of Maine, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LLOYD: Petition of citizens of Indian Territory, for statehood—to the Committee on the Territories.

Also, paper to accompany bill for relief of John T. McKee—to the Committee on Military Affairs.

By Mr. MARSHALL: Petition of National Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Commercial Club, Grand Forks, N. Dak., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MURPHY: Paper to accompany bill for relief of Sarah Osborn—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Edward Goodwin—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Calvin Holt—to the Committee on Invalid Pensions.

By Mr. NEEDHAM: Petition of Central Labor Council of San Joaquin County, for the present Chinese-exclusion act—to the Committee on Foreign Affairs.

By Mr. RIXEY: Paper to accompany bill for relief of William Burley—to the Committee on War Claims.

Also, paper to accompany bill for relief of estate of E. A. W. Hore—to the Committee on War Claims.

By Mr. RYAN: Petition of Good Citizens' League of Flushing, N. Y., for pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. WM. ALDEN SMITH: Petitions of The Herald Publishing Company and The Degree of Honor Review, Belding; The Anchor, Holland; The Times, Grand Rapids; The Observer, Coopersville; The Wave, Lake Odessa; The Germania, Grand Rapids; The Standard, Ionia; The Pewamo News, Pewamo; The Charlotte Tribune, Charlotte; The Lyons Herald, Lyons; The Michigan Poultryman and The Michigan Artisan, Grand Rapids; The De Wachter, Holland, and Morley's Magazine, Grant, against tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of Grangers of Sanilac County, Mich., for retention of present 10 cents per pound tax on imitation butter—to the Committee on Agriculture.

Also, petition of Grangers of Sanilac County, Mich., for Hepburn railway-rate bill (H. R. 10099)—to the Committee on Interstate and Foreign Commerce.

Also, petition of Grangers of Sanilac County, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Resort Grange, No. 841, Petoskey, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Grangers of Sanilac County, for bill H. R. 180 (good-roads bill)—to the Committee on Agriculture.

Also, petition against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of L. De Wilde et al., Grand Rapids, for increasing import duty on wooden shoes—to the Committee on Ways and Means.

By Mr. STEPHENS of Texas: Petition of Texas Cattle Raisers' Association, for the railway rate bill and the twenty-eight-hour law extending time of live stock in cars in transit—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Texas, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. STEVENS of Minnesota: Petition of Farmers' Association of Carleton County, Minn., for Government aid of highways—to the Committee on Agriculture.

Also, petition of citizens of St. Paul, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of John A. Logan Regiment, No. 2, Union Veterans' Union, of St. Paul, Minn., against attacks on the flag of United States—to the Committee on Military Affairs.

By Mr. SULZER: Petition of Horticultural Society, against free distribution of seeds—to the Committee on Agriculture.

Also, petition of New York Produce Exchange, against imposition of tonnage duties in ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. TAYLOR of Alabama: Petition of citizens of Mobile County, Ala., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of The Thomasville Echo, against names being printed on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS of North Carolina: Petition of citizens of North Carolina, for improvement of navigation of Bay River—to the Committee on Rivers and Harbors.

By Mr. TOWNSEND: Petition of citizens of Michigan, for passage of bill H. R. 9 (Dalzell bill)—to the Committee on Invalid Pensions.

By Mr. WADSWORTH: Petition of Chamber of Commerce, New Haven, Conn., for forest reserves in White Mountains—to the Committee on Agriculture.

By Mr. WILEY of Alabama: Petition of Luverne Journal and Greenville (Ala.) Advocate, against printing names on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. WOOD of New Jersey: Petition of National Metal Trades Association, Cleveland, Ohio, against the metric system—to the Committee on Coinage, Weights, and Measures.

SENATE.

THURSDAY, *March 29, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. NELSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

LEASING OF PUBLIC LANDS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting the draft of a proposed bill prepared by the Director of the Geological Survey to authorize the Secretary of the Interior to lease certain lands for grazing purposes, and to provide for covering the proceeds derived thereby into the reclamation fund, etc.; which, with the accompanying paper, was referred to the Committee on Public Lands, and ordered to be printed.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of John T. Plunkett, heir at law of Thomas S. Plunkett, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of E. T. T. Marsh *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Fred B. McConnell, heir at law of Rufus S. McConnell, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1345) to provide for the reorganization of the consular service of the United States.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the Vice-President:

S. 4198. An act granting permission to Prof. Simon Newcomb, United States Navy, retired, to accept the decoration of the order "Pour le Mérite, für Wissenschaften und Kunste;"

S. 4628. An act providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof;

S. 4833. An act to amend an act entitled "An act permitting the Washington Market Company to lay a conduit and pipes across Seventh street west," approved February 23, 1905;

S. 5184. An act to authorize the construction of a bridge across the Missouri River between Walworth and Dewey counties, in the State of South Dakota;

S. 5204. An act to authorize the construction of a bridge or bridges across the Yellowstone River in Montana;

S. 5211. An act to authorize the construction of a bridge across the Snake River at or near Lewiston, Idaho;

H. R. 6216. An act granting an increase of pension to Stephen D. Hopkins;

H. J. Res. 127. Joint resolution to correct abuses in the public printing and to provide for the allotment of cost of certain documents and reports; and

H. J. Res. 128. Joint resolution to prevent unnecessary print-